June 1977 $1.50

# California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS

## The latest JERRY BROWN – more 'old man' than New Spirit

ALSO: How two Californians collected campaign funds and pocketed the proceeds

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# A PERSONAL PERSPECTIVE . . .

By Ed Salzman

*The five-cent tax? Peanuts!*

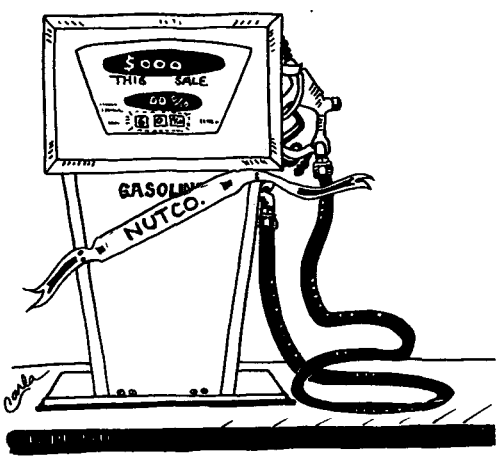
President Carter is whistling Dixie if he thinks his gasoline-conservation program will have much impact on Southern Californians. What's a measly five-cent-a-gallon surcharge on one of the necessities of life? Even the President's ultimate solution — a 50-cent tax — will be absorbed with relative ease over a period of years. Europeans now pay at least $1.50 a gallon, and they keep pumping plenty of gas even though marvelous public-transportation systems are available.

Mayor Tom Bradley of Los Angeles reacted to the President's proposals by suggesting that Southern Californians, who depend on the automobile more than other Americans, be exempted from the proposed tax. But one of Carter's proposals — that there be a special tax on gas-guzzling vehicles and rebates to purchasers of good-mileage vehicles — will have relatively little effect in Southern California because a high proportion of motorists are already driving economy cars.

Contrary to the views of Los Angeles officialdom, Southern California should be a prime target of those seeking to reduce the nation's consumption of petroleum because the automobile is virtually the only method of transportation there. (Some bus service is available, but it hardly qualifies as mass transit.) This is precisely the reason why the economic disincentives proposed by Carter won't work. The driving of an automobile is vital to most Angelenos, and if the cost must rise 10 or 20 percent a year, so be it. Surcharges, short of confiscatory taxation, simply won't work.

The only way to effect a significant saving in gasoline is to change the lifestyle and travel habits of Southern Californians. Must people live so far away from where they work, shop and obtain recreation? Why can't more use be made of bicycles? Above all, why can't a true mass-transit system be built for the Los Angeles basin?

We can talk about use of bicycles and better community planning, but there is only one real solution — the expenditure of many billions of dollars to provide a first-class mass transit system for the Los Angeles basin. The problem is that such a project would be so expensive that it might take half the national income from Carter's proposed tax to finance the system.




Without such a system, Carter and Congress can raise the price of gasoline to $1.50 a gallon, and only those at the bottom of the economic ladder would be prevented from driving. Many of these people might be forced to go on welfare, and the tax would have caused a bigger problem than it was designed to solve. If Carter really means business, he must provide the funds to give Southern Californians a first-class mass-transit system.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OF STATE GOVERNMENT AND POLITICS

Volume VIII, Number 6 June 1977

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CALIFORNIA JOURNAL is a non-ideological analysis of California government and politics published monthly by the California Center for Research and Education in Government, a non-profit, tax-exempt corporation. Publication is assisted by grants from the Columbia Foundation, Michael J. Connell Foundation, Ford Foundation, and Natomas Company.



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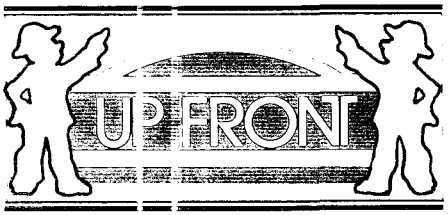


**If the Legislature passes** Assemblyman Barry Keene's bill (AB 1156, backed by Governor Brown) to establish, in effect, a public utilities commission for hospitals, can doctors' rates be far behind?

**The California Taxpayers Association** has come up with an analysis showing that in the last decade the one state and local tax that has lagged behind others is, you guessed it, the property tax.

**Former Assembly Speaker** Bob Moretti, now a member of the state energy commission, is being urged to return to the San Fernando Valley and challenge Democratic Senator Alan Robbins in next June's primary. Moretti says he'd like to see Robbins beaten but someone else will have to do the job.

**Tom Hayden** doesn't rule out the possibility he'll tackle Democratic state Senator Nate Holden. That would pit the former president of the California Democratic Council, Holden, against the founder of the new ultra-left organization, the Campaign for Economic Democracy.

**In state government,** almost everyone has his or her own printed calling card. In one agency, however, the turnover is apparently so great that the names are typed onto a form card. The agency: the Department of Education's migrant education section.

**The occasion was** a fundraising dinner for Democratic Assemblyman Fred Chel of Long Beach. Each guest was to get a personal wine glass with the Assembly seal and the lawmaker's name imprinted on it. Back came 21 dozen glasses with the name "Fred Shel" on them. The glasses were distributed anyhow. They fit into the format of the affair — a "roast."

**Albert P. Beltrami,** Mendocino County administrative officer, received a "California Means Business" button from the state. He wrote Governor Brown: "Following your leadership and example, I am returning the button because of our concern relative to free gifts from other agencies, businesses or individuals."

# CONTENTS

Profiting from 'unauthorized' campaigns 184
*By Susan Littwin*
An investigative report shows how two Angelenos pulled a bundle through an election-law loophole.

The latest Jerry Brown 187
*By Ed Salzman*
His father's son after all, the pre-election Governor is out to woo some of his political enemies.

Ken Maddy: the growers' candidate 191
*By Leah Cartabruno*
The odds are long but power-starved farmers are backing one of their own for the GOP gubernatorial nomination.

Splitting the spoils 193
*By Leo Rennert*
Cranston's quagmire: how to deal with the nitty-gritty of patronage — without getting mud on his coat.

The law-and-order graveyard 197
*By Cynthia Roberts*
Is the Assembly Criminal Justice Committee out of step or a humanist "court of last resort?"

The new Mineral King? 200
Disney Productions plans an Independence Lake ski resort it promises won't be plastic.

Consumers' pressure tactics 203
*By Robert Feinbaum*
Pickets and lawsuits lowered the price of milk; a food "lifeline" may be next.

Politicizing the doctors' lobby 207
*By Jill Hockenson*
Walking the legislative halls during the malpractice crisis taught doctors the political facts of life.

Training the untrainable 210
*By Ian Campbell*
An orientation for new Assembly members tried to impart the best way to tilt at windmills.

The human-resource shootout 206
*By Daniel M. Barber*

Caucus by Hugo ..... 190
Capsules ..... 202
Courts ..... 209
Roll call ..... 212
Newsmakers ..... 214
Lou Cannon ..... 215



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# How two L.A. fundraisers profited from a loophole in the federal election laws

*By* SUSAN LITTWIN

It sounds like it might be a case for the bunco squad, but it's perfectly legal. A couple of guys set up a phone operation to raise money for a popular candidate — who never heard of them or asked for their help. Then, they buy a few ads and pocket most of what's left. But thanks to the way the Federal Elections Commission (FEC) juggled its regulations to protect both the right of free speech and the $1,000 limit on individual contributions, the phone-bank hustle is absolutely legal, and the organizers can count their money on the police-station steps as long as they have registered and filed financial statements with the FEC.

A couple of enterprising Californians named Bill Morrison and Charles Reade did exactly that last year, taking in over $170,000 from contributors who thought the money was going to the campaigns of Ronald Reagan, S. I. Hayakawa, or Gerald Ford. In fact, more than $81,000 stayed with Morrison and Reade in the form of fees and commissions, and a chunk of the rest went to fund-raising commissions for telephone solicitors. What actually was spent on advertising was so diffuse and ineffective that it wasn't even noticed by the official campaigns. Reade and Morrison were able to pull this off and stay free by working a loophole that could undermine broad-based financing of political campaigns in years to come.

They registered each operation as an "independent political committee" — a stepchild of the U.S. Supreme Court's 1976 *Buckley* v. *Valeo* decision, badly raised by the FEC. When the court struck down the $1,000 limit on independent expenditures as an infringement on a citizen's free-speech right to spend as much as the citizen wanted to support (or attack) candidates, it seemed as if it had created a loophole that a fat cat could drive a chauffered limousine through. Big donors could give $1,000 to the official campaign and huge sums to its "independent" committees.

### Keeping the independents independent

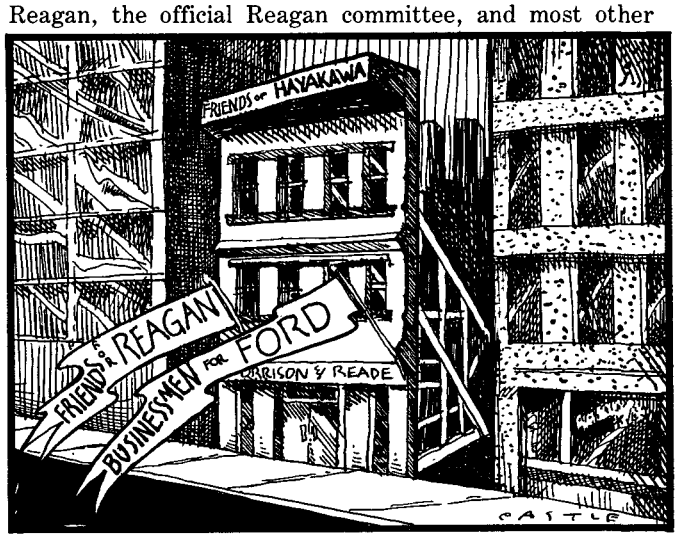
To close the independent committee loophole, the FEC traced the fine line drawn by the court between expenditure and contribution. If you buy billboard space to post your political message, you're making an expenditure, and you're free to spend as much as you like. If you give to a committee that is raising money to buy billboard space, you are contributing, and the individual limits apply. The difference, according to a majority of the court, is control, and you are exercising free speech only when you have full control of the expression.

To keep independent spenders from becoming a tactical arm of campaigns, the FEC ruled that they could not coordinate, cooperate, or communicate with the candidate, or his or her people. All of their printed matter and public advertising must state clearly and conspicuously that they are not authorized by the candidate.

The safeguards did what they were intended to do. When Reagan's Florida chairman tried to set himself up as an independent to raise money in Illinois, the FEC stopped him. When a disgruntled Carter supporter, Herb Hafif, bought full-page newspaper ads to attack Carter, no spending limit interfered with his right of free speech. Established fundraisers rejected the independent route as dangerous and deceitful. But what the rules failed to do was protect contributors and candidates against an independent, unauthorized hand in their pockets.

Under the law, anyone can use a candidate's name to raise money. The telephone is not included in the detailed list of media that must carry the "unauthorized" disclaimer. Candidates prohibited by law from coordinating, cooperating, or communicating with independent efforts cannot convincingly disavow anyone asking for money on their behalf. The stage was thus set for the dramatic duo, experienced Republican fundraiser Morrison and former telephonic salesman Reade.

On May 13th, 1976, they registered a statement of organization with the FEC for the Friends for Reagan Committee. Charles F. Reade Jr. was named chairman and treasurer, and William F. Morrison was listed as chairman of the finance committee. (A later amendment made Morrison treasurer.) No other officers were listed. Similar to Citizens for Reagan, the official Reagan committee, and most other




*The author, a free-lance writer in Los Angeles, is a frequent contributor to the* Journal.



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presidential campaigns in Los Angeles, the Friends were headquartered on Wilshire Boulevard. But their address — 5455 Wilshire, Suite 1009 — was not the expected busy headquarters packed with volunteers and cartons of literature. It was a quiet room housing the Lee Tower Telephone Answering Service — used as a mail drop by the Friends for Reagan.

### Birth of Poli-Spectrum

A day later, Morrison and Reade filed a statement with the Los Angeles County Clerk that they would be doing business under the fictitious names of Friends for Reagan and Poli-Spectrum, a political consulting firm evidently created that day. Poli-Spectrum consisted of Morrison and Reade as limited partners and, within the next six months, the neophyte firm was to take in nearly $75,000 in fees from unauthorized committees headed by one or both of them. The partners also paid themselves more than $6,000 in fund-raising commissions, always drawn in identical amounts, as if they had solicited in tandem.

Telephone fund-raisers were recruited through newspaper ads and set to work mining lists of conservative givers. Their approach: Friends for Reagan is an independent committee, registered with the FEC, given the responsibility of purchasing television time to air a speech Reagan had given in Texas. According to Friends' employees, the videotape of the speech belonged to Texas author, J. Evetts Haley *(A Texan Looks at Lyndon Johnson)*, who had donated it exclusively to their committee. The tape was to be shown in Los Angeles, San Francisco, San Diego and several cities in Ohio.

A Hollywood videotape outfit explains the origin of the tape differently. A Reagan fan named Tex Talbert asked them to make about a dozen reproductions of the tape for distribution in California. Morrison and Reade learned of it, paid to view it, and had five more cassettes made for Friends for Reagan.

But the approach harvested $63,788.74, most of it pouring in the week before the California primary. The list of contributors was as rich in Texas oil as in little old ladies from Pasadena; even John O'Melveny of the prestigious O'Melveny and Myers law firm chipped in $250. Under their authority as officers in Friends for Reagan, Morrison and Reade paid themselves, as Poli-Spectrum, $27,275.

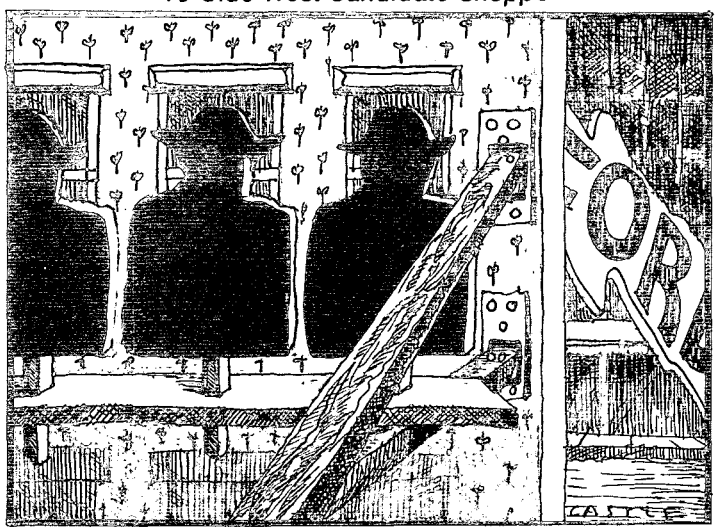
By that time, the Poli-Spectrum firm had moved out of its mailing-address office and into more spacious quarters near Hancock Park. Some $1,300 in rent, paid to Poli-Spectrum's landlord, McCrory Stores, and $422 in office equipment were charged to the Friends for Reagan, who were still billeted with the answering-service operators on Wilshire Boulevard.

### Media expenditures

The direct media expenditures of Friends for Reagan were less than $16,000 of the total collected, but even these are interesting. Their report accounts for $10,729 for the purchase of media — all of it listed simply as paid to the Bank of America for cashier's checks. (Such fuzzy reporting has since been disallowed by the FEC, but was permitted at that time.) Another $5,000 — also paid to the Bank of America for a cashier's check — went to "television production costs" despite the fact that 28.5 minutes of a 30 minute program were donated and the tape reproduction was cited separately.

The cashier's checks for media were drawn to Reckas and Associates, listed elsewhere on the report as receiving a $1,000 fee for advertising consulting. A Reagan supporter who worked for the committee said neither Morrison, Reade, nor the agency knew anything about buying television time. They delayed too long and couldn't make the buys they wanted to. When asked why they had used an inexperienced agency, she explained that Reckas was a friend of theirs.

*Ye Olde West Candidate Shoppe*



Bearing out her contention, the report lists a $5,221 refund for unpurchased media time. Stations seldom require cashier's checks from established agencies. Terry Reckas, who heads the firm, refused to discuss the ads or where they ran, even though the election was over 10 months ago.

A phone check of television stations reveals that the tape did air on Los Angeles' Channel 13 on a Saturday night at 9:30, opposite a CBS comedy and the NBC movie and sandwiched between a religious program called "Voice of the Martyrs" and a public affairs broadcast rerun called "Wednesday Morning." The cost was $4,000 and, presumably, Reckas took a 15 percent commission. Lyn Nofziger, who headed the official Reagan campaign in California, was unaware that the program had ever run and felt that Reagan had made many speeches better than the one on the Texas tape.

### Morrison, Reade flexible

But it was a good month's work for Morrison and Reade. By their own figures, a bare quarter of the total was spent to promote the candidate. The rest was "overhead." As Morrison himself said, "You have to spend money to raise money." A fund-raiser who complained that the 20 percent commission was too low was told the law required that 60 percent of the receipts be spent on behalf of the candidate.

Morrison and Reade proved flexible. On the very day of the California primary, they filed a statement of organization for another independent committee, Friends for Hayakawa. This time, perennial conservative candidate and tax protester Howard Jarvis served as chairman and Morrison was treasurer. Reade named himself manager and kept his name off the FEC statement.

The memorable-speech approach was abandoned in favor of co-existence (and confusion) with the official campaign. Again, a Wilshire Boulevard mail-stop was chosen as headquarters. This one was 6200 Wilshire, Suite 903, home of the Wilshire Tower and Ajax Telephone Answering Services. The committee name, Friends for Hayakawa, was close to the name of Hayakawa's early organization, Friends of Hayakawa. One of the first expenditures was for a brochure strikingly similar to the official campaign's brochure, but bearing the Friends for Hayakawa identification and the small print disclaimer that the committee was not authorized by the candidate. The telephone appeal was simply



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a general request for funds to purchase television and radio time for Hayakawa.

It worked well enough. The Friends raised nearly $55,000 within three months. Their contributors included a vice-chairman of the Fluor Corporation; a Mobil Oil chairman, a Standard Oil chairman, executives of the Union Bank, Carter Hawley Hale stores, California First Bank, and Ashland Oil; a Shell Oil Employees Political Action Committee; and Los Angeles City Councilman, Don Lorenzen.

But unlike the Reagan people, who rode breathlessly into California after months on the campaign trail, Hayakawa's campaign managers noticed the competition for their own candidate's dollar. In mid-September, Hayakawa attorneys Dobbs, Doyle and Nielsen of San Francisco took the Friends to court, charging trademark infringement, unfair competition and damage to Hayakawa's reputation and chances of winning. According to attorney Vigo Nielsen, none of it gave legal pause to the Morrison-Reade effort. But when a technical violation was discovered in their report, committee chairman Howard Jarvis agreed to go out of business if the Hayakawa campaign would drop its suit. Hayakawa's attorneys accepted the deal, but convinced the judge to write an injunction that would go into effect automatically should Jarvis forget his promise.

Friends for Hayakawa had paid out $3,500 for "advertising and media expenses" and a little over $300 for printing. But $2,821 of the media expenses were refunded a few weeks after the court agreement, leaving $982 paid out in actual campaign expenses. Of the nearly $54,000 left in the till, Poli-Spectrum took about $40,300 and the rest went to fund-raising commissions, which included $1,360 for Morrison and Reade.

### 'Businessmen for Ford'

The Hayakawa attorneys' unmistakable demand that the Friends for Hayakawa disband was given on July 16th. Proven money-raiser Ronald Reagan had failed to get the Republican nomination. So on August 25th, Businessmen for Ford was born, housed back at the former Friends for Reagan address. Morrison was treasurer and Reade promoted himself to national chairman. (Their financial report filed on October 26th had the committee living with them at Poli-Spectrum's address.) The Ford committee took in $52,000, with $30,000 paid to Mission Argyle Productions for media expenditures. Morrison and Reade kept $10,750 in Poli-Spectrum fees and personal fund-raising commissions.

Mission Argyle is a commercial production company, specializing in toy advertising. Its eight-year corporate history includes three name changes. It is worth mentioning only because the company has such a staff turnover rate that, six months later, there was no one still employed who could provide information about the work done for Businessmen for Ford. One employee was puzzled at the question, saying that the firm didn't do political commercials. A cursory check in Los Angeles turned up $3,000 worth of television spots on Channel 13. David Liggett of Spencer-Roberts Associates, who managed the Ford campaign in California, was unaware that the group existed.

Morrison and Reade were not the only ones to try a good idea. Michael Kerns, a fund-raiser for Friends for Hayakawa, tired of handing over 80 percent to Morrison and Reade, and headed for northern California where he and his wife operated Voters for Hayakawa from their home. They raised $4,555 before the Hayakawa lawyers convinced them to quit. Two San Franciscans raised $3,500 as "Republican '76," but this was a clear violation of the state elections code, which prohibits unauthorized use of party names — a protection not given to candidates or their campaigns.

### Trouble for professional politicos

These independent fund-raising operations trouble political professionals, who worry about losing control of their campaigns. A few dollars going astray doesn't concern them nearly as much as the possibility that an unauthorized group will take itself seriously and launch a rival campaign. But solutions are hard to come by. The one legislative reform proposed by the Hayakawa people is a requirement that a chilling disclaimer begin each telephone contact by an unauthorized committee.

For some reason, independent fund-raising seemed to be restricted to Republican campaigns this time. One explanation is that it is impossible to raise money "cold" from Democrats. Another is that Republican lists are better and juicier.

Meanwhile, Morrison and Reade have moved into a smaller office in the same building, perhaps waiting for the next general election and the next batch of windfall candidates. The real problem will arise if they have competition from other unauthorized fund-raisers. At that point, they will stop being thought of as a pair of loveable opportunists who parted the unsuspecting from a bit of their money. Then, they will have started something that may cripple the ability of campaigns to raise money from the general public and restrict political fund-raising to the tiny in-group of sophisticates who can tell the real campaign from the legal imitations.


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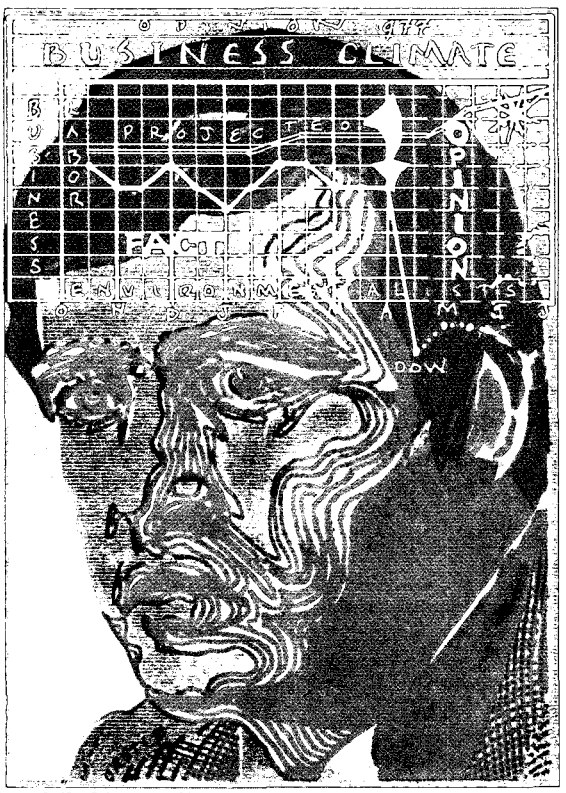
# THE LATEST JERRY BROWN – WOOING HIS POLITICAL ENEMIES

*By* ED SALZMAN

As a candidate for governor in 1974, Jerry Brown campaigned as the New Spirit. Today, preparing for another appeal to the voters next year, he is acting far more like the Old Man.

During eight years as governor, Edmund G. Brown Senior often operated under the theory that some friends could be taken for granted and that elections could be won through a wooing of previous political enemies. Pat Brown was a compassionate and forgiving governor, and he genuinely wanted everyone to love him. He also thought it was darned good politics to occupy as large a section of the political spectrum as possible, even at times if it meant abandoning the Democratic left.




Jerry Brown has generally been pictured as the opposite of his father in every major respect — as an individual, as chief executive and as a politician. The gap between father and son has not closed in personality and governing style, but there is now hardly any difference between the Browns as politicians. Jerry Brown has attempted to convey the notion that he frowns on the traditional brand of politics and was offering something cleaner and more appealing in the New Spirit. But that image has been shattered by Brown's actions since he launched his campaign for President last year. By a two-to-one margin, Californians agreed with the following statement in a recent poll by Mervin Field's organization: "Jerry Brown is just as political as most officeholders. Everything he does is calculated to give him a strong position to run for president in 1980."

If that survey is accurate, Brown has failed in an effort to maintain an image as a non-practitioner of politics as usual. Consider that this poll was taken only a few months after Brown announced that he would veto a death-penalty bill, a revelation that was hardly calculated to help him get elected to anything. Consider also the extreme odds against Jimmy Carter being vulnerable to a Brown challenge in 1980 and the necessity for Brown to win reelection before he can even consider such a campaign.

It is the run for reelection, not the presidential possibility, that has caused Brown to adopt the tactics of his father and woo previous political enemies. Brown has been weakened by the loss of the farm-labor proposition on last year's ballot, by the labor-business outcry following the death of the proposed Dow Chemical Company plant and by the notion that he might be soft on crime because of his capital-punishment stand.

### Of rivers and whales

The New Spirit Governor opposed the construction of the New Melones Dam on the Stanislaus River, sponsored a save-the-whale festival in Sacramento, supported Cesar Chavez' Proposition 14 to the hilt, established an Office of Appropriate Technology to help bring the state into the "era of limits" and instituted the Diamond Lanes on a Los Angeles Freeway. But that was before California was afflicted with the drought, before the farmers whipped Chavez and, above all, before his Administration came under attack from business and labor for creating an "adverse business climate" in the state.

Temporarily, at least, that Governor has been put into mothballs. As Pat Brown would have done, Jerry Brown is attempting to convince Californians that he favors business expansion in the state, that he is working hard to create new jobs, that his policies are not balanced toward the environmentalist views and that his previous support of Chavez should not be interpreted as opposition to the growers of California.

Ironically, Brown is reacting to imagery and not substance with his "California Means Business" campaign. Labor and industry have done a marvelous job of creating the myth that California's business climate is poor and the Brown Administration is primarily to blame. The Governor helped build this image with his era-of-limits and lower-your-expectations rhetoric, which was interpreted as anti-growth and therefore anti-business. Look at the supposed evidence that Brown is anti-business and the facts in each case:

**The Fantus Company**, a subsidiary of Dun and Bradstreet, reported that California ranks 47th of the 48 contiguous states as a favorable place to locate a new plant.



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But that report was based on statistics gathered while Ronald Reagan was governor.

**The State did lose** the $500 million Dow Chemical Company plant on the Sacramento River because the permit process was too difficult. But the fact is that Brown, if anything, helped speed consideration of the applications, as was sought by Dow. It would have been naive of Dow to expect the Governor to fight for a waiver of all the environmental considerations. In any event, the Dow project would have been tied up in the courts for years if the firm had proceeded. The Governor may have caused some of his own problems in the Dow controversy by helping to create the impression that the project might well have been approved. He then became a victim of the doctrine of unfulfilled expectations.

**The unemployment statistics** show California consistently behind the rest of the nation. But almost 360,000 new jobs were created in the state last year, reducing unemployment significantly. California lags somewhat behind the rest of the nation because the state has an exceptionally large number of young people entering the job market from colleges, and the state has a large number of women coming out of the home looking for work.

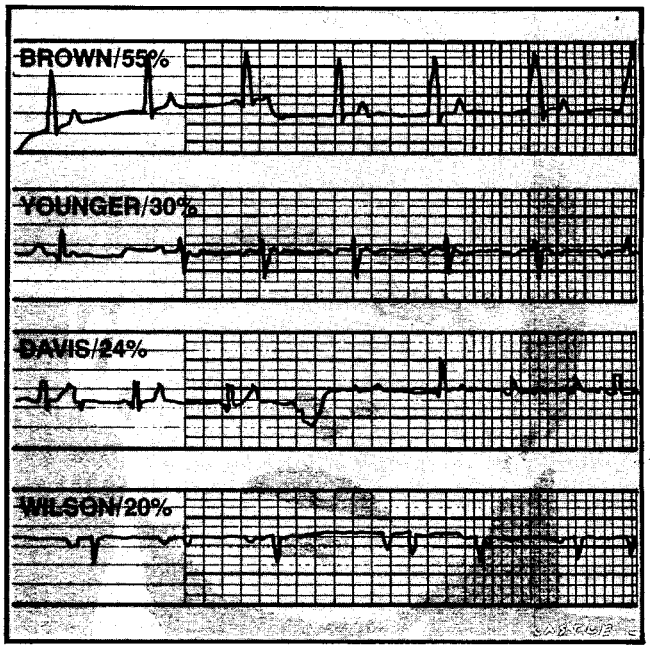
### Image now political reality

Despite these facts, the political realities dictate that the Governor respond to the image that his Administration was unbalanced toward the environmentalists. He appointed a Bank of America vice president, Alan Rothenberg, as interim secretary of business and transportation. Then Rothenberg was succeeded by another profit-oriented businessman, San Diego investor-banker-entrepreneur Richard Silberman, who also happened to be the treasurer of Brown's presidential campaign. The Governor supported legislation designed to ease the plant-construction permit process. His environmental aide, Tom Quinn, let it be known that ARCO may be able to get the permits for a petrochemical plant that Dow was unable to obtain.

In the most dramatic move of all, Brown went to Japan on a mission to bring a Honda, Datsun or Toyota assembly plant back to California. This was only a short time after he had sponsored a save-the-whale day in Sacramento, and the message at that festival was for Californians to boycott Russian and Japanese goods. It is significant that he was accompanied by Silberman, who could open doors wide for Brown in the Orient. (Silberman sold his Southern California First National Bank to the Bank of Tokyo of California two years ago.) It would be a major political coup for Brown if he could announce the location of an auto plant in California during the height of next year's campaign.

All it would take is a few new plants to shut off the complaints that Brown is responsible for the state's reputation as a bad place to do business. It will be much more difficult for the Governor to establish decent credentials with the state's agribusiness community. If there is one issue that has marked the Brown Administration thus far, it has been the establishment of the Agricultural Labor Relations Board and all the accompanying controversy. After all, Brown personally negotiated the compromise that led to enactment of the ALRB legislation, with a big assist from Chief Justice Rose Elizabeth Bird, then secretary of agriculture and services. Then he appointed a board that was considered by farmers to be heavily weighted in favor of Cesar Chavez' United Farm Workers. And finally, he supported the Chavez initiative on the ballot last November.

But Brown is giving it the old college try. Upon Bird's confirmation as chief justice, he broke her job into three parts and gave the directorship of the department of food and agriculture cabinet status. He appointed an honest-to-goodness dirt farmer, Richard Rominger of Winters, as director. Then Brown went campaigning for farm-belt votes by conducting Rominger's swearing-in ceremony in the hinterlands and making a speech describing how much his Administration wants to help the agribusiness community. Cesar Chavez no longer plays a visible role in the active political world of Jerry Brown.




Brown can take the farm workers for granted. They know he is fundamentally on their side, and Chavez understands the political strategy being employed by the Governor. In fact, all of organized labor will probably be on Brown's side next year because chances are slim that the Republicans will offer a more attractive alternative (although Attorney General Evelle J. Younger has attracted some labor support in the past). In the first year of Brown's Administration, the AFL-CIO said more of its bills were passed by the Legislature than in any previous year. But now labor has lost its enthusiasm for Brown, especially those unions that would have benefited from the Dow project. John F. Henning, the California AFL-CIO chief executive, told a Sacramento audience recently that "Dow wasn't an accident. Dow came inexorably from the logic of the no-growth policies." Organized labor is most valued by politicians, not for the votes produced by unions, but for the money contributed by various organizations. It is doubtful that Brown will have money problems next year, with or without organized labor.

Labor isn't the only former ally of the Governor's that is upset. Ironically, while Brown has been trying to make peace with labor, he has lost friends in the environmental movement through such actions as his endorsement of the Auburn Dam construction and his support of moves making it easier for manufacturing plants to be built in the state. Brown told Gale Cook of the *San Francisco Examiner* that "The environmental movement is being weakened . . . . Their lobbyists are not doing a very good job and the constituency for clean air, clean water and quality of life is not getting the kind of representation it deserves." Carl Pope, executive director of the League of Conservation Voters, claims Brown has overreacted to the Dow blacklash. Said Pope: "He appears to be typical of most politicians. He doesn't like to have anybody organized and powerful mad at him."

It remains to be seen whether the environmental organizations will have another alternative next year. In the 1976 presidential campaign, the conservationists gave Jimmy Carter the highest grades. Brown was rated C-plus, and the Governor now quotes that mark as evidence that he has always had a balanced outlook toward business and the environment. Younger and Mayor Pete Wilson of San Diego



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both can appeal to environmentalists on their records as attorney general and mayor. Their problem is that they will both have to cope with the growth issue during the Republican primary campaign, and it is doubtful that either of them would risk a pro-ecologist stance. Brown could be damaged severely with conservationists if he goes to the mat with President Carter over the Auburn Dam in the next few months, but he must weigh the views of those adversely affected by the drought against the views of those who want wild rivers preserved.

### Specter of capital punishment

Younger and Police Chief Ed Davis of Los Angeles will make a great deal out of the capital-punishment issue if either of them gets the nomination. The death penalty in itself would probably not be very damaging, but it can be used as a way of accusing Brown of being soft on crime generally. They will have a great deal of difficulty making that stick because Brown, if anything, has been quite tough on crime.

Brown has emphasized from his first days in office that he does not like a laundry-list solution to problems — the presentation of an umpteen-point program on something (as the previous Brown Administration used to do). But a few weeks ago, he appeared at a "Forgotten Victims" conference held by the District Attorneys Association to present his eight-point program to get tough on criminals. The Governor called for cutbacks in the probation-subsidy program and for strengthening amendments to the Determinate Sentencing Act (SB 42) enacted last year. Later he even said he was willing to reduce the Governor's right to commute sentences, if the Legislature would enact life imprisonment without possibility of parole as a substitute for the death penalty.

Brown has upset the civil libertarians more than the law-and-order folks with his program, especially with the amendments to SB 42. Some civil-liberties lawyers claim Brown promised not to meddle with SB 42 for three years to give it a chance to work, but that the pressure from Chief Davis and others has been so heavy, he has elected to accept some revisions.

The civil libertarians and others at the liberal end of the political spectrum are now expendable. They will have no place to go next year, although some of them might sit on their hands to protest some of Brown's more conservative actions. Any Republican is bound to be more conservative overall than Brown, and the Republican task will be to paint Brown as a liberal in order to break away those voters in the center. In fact, Mervin Field's California Poll shows that Brown would muster a substantial number of Republican votes (29 percent against Younger and 35 percent against Wilson) regardless of who the GOP nominee is.

### Brown's 'Old Man' strategy

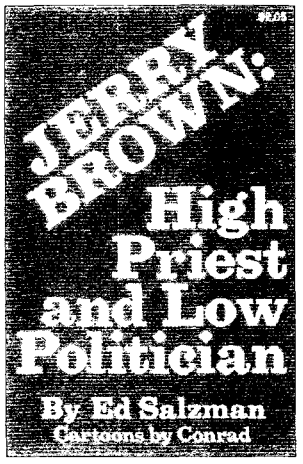
It is impossible to tell if Brown's "Old Man" strategy is working. That's because the stands he takes on issues may have relatively little effect on the electorate. His popularity is probably based more upon the little things he does — like drive the small car, eat in neighborhood restaurants, sleep in a simple apartment, refuse all gifts however small, pay his own way to Japan — than on what he's doing to woo labor and business. But Brown is undoubtedly one of the best politicians the state has ever seen, and he has a knack for knowing before most others what the mood of the people will be in an election year.

Brown will head into the 1978 election as the clear favorite to defeat any Republican. The Field Poll showed him running far ahead of any of four possible opponents, even Ronald Reagan (who was placed in the survey to match Brown with someone equally well known). The results: Brown 55, Younger 30; Brown 57, Davis 24; Brown 57, Wilson 20; Brown 53, Reagan 36. Looking toward the Republican primary, Younger has a big early lead with 42 percent, compared to 17 for Davis and only 11 for Wilson. The fourth potential candidate is Assemblyman Ken Maddy, a little-known farmer-backed candidate with a moderate-to-liberal voting record.

If all four seek the nomination, Davis will be the only genuine conservative in the field. Younger and Wilson supported Gerald Ford last year and have been trying hard to make inroads into the Reagan camp. Maddy was a Reagan supporter and can be expected to move to the right once his Democratic Assembly constituency is off his back. Maddy will need a great deal of money to make himself known. and there are those who believe he will opt to run for attorney general because the gubernatorial odds are too long.

But it seems to make no difference what the Republicans do. They appear to be stymied following the trail of the clever, inconsistent Governor. As the New Spirit or the Old Man, Jerry Brown will be a mighty tough target for any GOP nominee.


## The Whole Brown Catalog




Do you understand why Governor Brown isn't talking so much these days about the "era of limits" and instead is trying to lure manufacturing plants to California? Do you understand why Brown opposed the construction of the New Melones Dam in 1974, but now supports the erection of the Auburn Dam? Do you understand the apparent conflict between Brown's leadership in the anti-Japanese campaign to save the whale and his efforts to become friendly with Japanese business leaders?

The two sides of the Governor are explored in JERRY BROWN: HIGH PRIEST AND LOW POLITICIAN, by Journal editor Ed Salzman. This Whole Brown Catalog contains cartoons by Paul Conrad of the Los Angeles Times, some of Brown's most quotable quotes, his first two state-of-the-state addresses, a sampling of his pithy veto messages and photos of Brown in action. Anyone with an interest in California politics and government will want a copy of this attractive paperbound book.

Copies are available for $3.13 each, including tax, from Journal Books, 1617 10th St., Sacramento, CA 95814. Postage and handling are free on prepaid orders.

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# Caucus

by HüGo

I WAS ELECTED BECAUSE I PROMISED TO TIGHTEN SPENDING.
DEMOS VOTED FOR ME BECAUSE THEY KNEW I'D HELP THE FARM WORKERS!
CONSERVATIVES BACKED ME FOR MY HARD LINE ON CRIME.
I INSPIRED THE LIBERALS BECAUSE OF MY SUPPORT OF ENVIRONMENTAL ISSUES.
CALIFORNIA MAY BE THE ONLY STATE IN THE UNION...
...THAT HAS ELECTED TWO GOVERNORS!
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LONG ON ODDS, SHORT ON NAME I-D

# Ken Maddy, a candidate for the power-starved growers

By LEAH CANTABRUNO

The one-man, one-vote decision was as good as a vendetta against agriculture in California politics. The 1965 United States Supreme Court ruling and subsequent reapportionments have deluded the state's number-one industry of its political power base. The direction of state government has turned from rural, agricultural interests and toward populous urban and suburban concerns. It has taken over a decade for the jilted farmer to mount a campaign for a return to power. Both leading and capitalizing on that drive is Assemblyman Ken Maddy, a charismatic but long-odds candidate for the Republican gubernatorial nomination next year. Virtually every element of the agricultural industry is rallying behind the Maddy candidacy.

Maddy led the agribusiness efforts in the hot dispute over the Agricultural Labor Relations Board (ALRB) and its offspring, Proposition 14, the Cesar Chavez-sponsored initiative on last fall's ballot. Although a lawyer by profession, Maddy holds a degree in agriculture and is well versed in the industry's problems. Realizing he is almost unknown to many California voters, Maddy has a plan to put the GOP nomination within reach.

Money is the key. Before Maddy makes a final commitment to run, he wants $300,000 in the bank, free from overhead costs and not based on pledges or in-kind contributions. He has given himself until July 1st to meet that goal. At mid-May, Maddy had $185,000. Putting rumors that he is really running for attorney general to rest, Maddy stresses that he has promised donors that the money will be used in the gubernatorial race or will be returned. So far, he is ahead of schedule — going "almost too fast," he said, because he is being made a target by opponents.

Most of the groundwork is being done by a campaign committee called "Agricultural Friends of Ken Maddy." The two consultants staffing the organization, Doug Watt and Sal Russo, are former employees of the Assembly Republican Caucus. They were dismissed in a tangled controversy over whether the after-hours production of a Maddy brochure constituted an act of disloyalty to Assembly Minority Leader Paul Priolo. Now working full-time for Maddy, the two men are responsible for the grass-roots fundraising that has produced contributions ranging from $25 to $5,000.

### Two for the money

Relying on word-of-mouth solicitation and small gatherings of friends, the two consultants are surprised at the ease with which they are collecting money. They report that when they first started making contacts in late February, some people were enthusiastic but others were skeptical that a candidate from Northern California could win. Others wondered if agriculture could get its act together. But by mid-March, a mass mailing and an increase in press coverage started people asking what they could do to help. By the time a Sunday *Los Angeles Times* article appeared in late April, the farming community was out almost in full force.

Among other things, the *Times* article paralleled Maddy's efforts with Jimmy Carter's rise to the Presidency. Not only do both men come from rural agricultural communities, but both campaigns drew people who previously had not been active in the political process. The *Times* article helped where Maddy is the weakest — name identification. After the money is raised, that is the next target.

The political awakening of the farmer has dovetailed with Maddy's efforts. In the last two years, new groups have organized while old ones have intensified their political operations. Central to the theme: Get rid of Jerry Brown, and get the farmer's side of the story out to the people. Says Evelyn Costa of the new California Women for Agriculture, "People are saying we're negative and not interested in energy and the environment. Actually, we were the first conservationists." A women's group was formed, she explained, because the farmer was busy producing food and fiber and the growers' groups were too commodity oriented. "We want to speak out for agriculture," she said. "We want to up-date school informa-



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tion and correct the image that some of the movements and church people have given us."

### 'Aren't old hayseeds'

How can the farming community accept a sophisticated civil libertarian like Maddy? After listing Maddy's contributions to agriculture's program, Watt pointed out that the image of the grower isn't what it used to be. "Farmers aren't out there on their tractors anymore," he pointed out. "They send their kids to college, read and are aware. They aren't the old hayseeds from Kansas." He cites the Agricultural Labor Relations Board, the Industrial Welfare Commission, the California Occupational Safety and Health Administration and legislation aimed at preserving prime agricultural land as intrusions into a grower's life that have called for new methods and knowledge.

Hiding tongue-in-cheek behind the dated hayseed image is Harry Kubo, an agricultural spokesman who gained statewide attention during last year's Proposition 14 battle. Kubo says he is too disorganized to yield to Senator S.I. Hayakawa's entreaties that he run for governor or, at least, for Fresno Congressman John Krebs' seat. Instead, Kubo is enthusiastically backing Maddy's candidacy and serves on the Agricultural Friends' organizing committee. He feels Maddy "will have clout once he gets exposure, and he's on the committee that will give it to him." Kubo was referring to Maddy's chairmanship of the Criminal Justice Committee, which was the key to Assembly passage of a death-penalty bill.

Although he was for the reinstitution of the death penalty, Maddy has compiled a strong civil-liberties record that affects the ratings conservative organizations give him and makes him a prime focus for Senator H. L. Richardson and his chosen candidate, Los Angeles police chief Ed Davis. The California Republican Assembly's 1976 scorecard, which rated the Legislature on 27 issues, gave Maddy 48 out of a possible 100 — one of the lowest ratings for a Republican. Yet Maddy reported his reception at the CRA convention was "tremendous" and "responsive."

### GOP competition

Maddy contends that too much is made of his civil-libertarian record. "The key issue," he says, "will be the business climate, no-growthism — and I'm the strongest candidate on that issue." This explains why his candidacy is attracting the attention of small businessmen, the trucking industry, civil engineers, general contractors and the building trades in addition to his stalwart, agriculture. His pro-business record on these issues in unimpeachable, in contrast to some of his opponents for the GOP's mominations.

San Diego Mayor Pete Wilson is drawing some of the money that used to be behind Ronald Reagan, but he is severely handicapped when agricultural interests ask him to explain his slow-growth attitude, and his support for the coastal initiative and for former Assemblyman Charles Warren's proposal to preserve prime agricultural land. Wilson is also hurt by some anti-Reagan remarks attributed to him when he was campaigning for Gerald Ford during the presidential primary.

The agricultural community doesn't give Attorney General Evelle Younger good marks on charisma and environment. Even though Younger has made a recent attempt to move to the center on environmental issues, his support for conservationist causes came early and consistently. But the high crime, in growers' eyes, was Younger's vote to confirm former Agriculture and Services Secretary Rose Bird as chief justice of the state Supreme Court. Bird was a principal architect of the Agricultural Labor Relations Board legislation.

### Move no accident

Los Angeles police chief Ed Davis is viewed as a one-issue candidate and has not been seriously considered for agricultural support. On paper, Orange County Senator John Briggs, who was once chairman of the Assembly agriculture committee, should be able to give Maddy some competition for grower dollars. But some farmers suggest Briggs has worn out his welcome by coming to the well too often, and for purposes less lofty than the gubernatorial nomination.

It was no accident that Maddy was a floor manager for Reagan's presidential effort in Kansas City. Maddy is depending on his varied appeals to reach a broad spectrum of voters. In addition to the pro-growthers and Reaganites, he can appeal to Democratic voters, something he's done successfully in carrying his 67-percent-Democratic assembly district election after election. He's out to prove that "the myth that you must be from a large metropolitan area to be a successful candidate is just that, a myth." His weapon in the name-identification battle will be money — mainly agricultural money.

As head of the Western Growers, Darrell Arnold puts agriculture's plight this way: "Current people in office in Sacramento are trying to kill agriculture. . . . Let's start with the Governor and the Agricultural Labor Relations Board; he double-crossed us on the appointment of board members and then on changing the law. We wouldn't have the dam and water problems if we didn't have him. And we're going to do everything we can to defeat him." Arnold's group is bipartisan and doesn't make endorsements during primaries. His group and other organizations are holding off formal support for Maddy but are doing what they can on a personal level.

What does agriculture want from Maddy in return for its support? Answers Arnold, "Maddy doesn't have to promise agriculture anything. He's already done it." Maddy agrees: "They've seen me with Proposition 14 and the ALRB. I don't quit. I fight for what I believe is right. In no way am I a waffler or do I compromise."

Even though he has not yet appeared in the polls and has to improve his name identification dramatically, Maddy displays Carteresque confidence. "By September," he predicts, "I'll be viewed as the strongest Republican candidate in the race."



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# Cranston's continuing conflict over distribution of the spoils

By Leo Rennert

After last November's elections, Alan Cranston was asked to predict what problems he might encounter as California's senior senator now that his junior colleague no longer would be Democrat John Tunney but Republican S. I. Hayakawa. Cranston's immediate response was "patronage" — placing California party loyalists in high-level jobs in the Carter Administration.

At first blush, this was a rather startling reply. After all, Tunney's defeat had left Cranston in the enviable position of being able to wield virtually total control over appointments of Californians. Historically, senators of the president's party have jealously defended this spoils-distribution role as one of their prime prerogatives. And, as chance and the California electorate would have it, Jimmy Carter was not required to pay attention to two senators from the state — just one. As a GOP freshman, Hayakawa was not even in the game. The stampede for several thousand top slots was getting under way. Cranston, it seemed, only had to reach out and crown himself patronage czar for California's share of the Carter-victory spoils.

Why then did Cranston look on this prospect with such foreboding? There usually are more job-seekers than jobs, he explained, and unsuccessful candidates can find an easy target for their resentment if there is only one clearly-identified dispenser of patronage. If Tunney were still around, disappointed applicants could be told that both senators were involved in the final choice and responsibility for picking Smith over Jones could be fuzzed. But that was no longer possible. For every happy job-seeker who would be eternally grateful to Cranston, there could be half a dozen who might turn into bitter enemies.

### Patronage 'point man'

The role of patronage "point man" obviously was not Cranston's cup of tea. Let Democratic senators from other states maneuver with great gusto behind the scenes to place as many of their friends as possible in the policy-making councils of the new administration. California's senior senator was not going to stick his neck out in what he saw as a no-win situation. Cranston eventually did open a few doors for California applicants and did extend personal support in some cases. But he clearly shied away from a maximum effort.

Cranston's cautious attitude was but one of several California handicaps in the Carter patronage sweepstakes. Politically, Carter owed the state very little. He was defeated there — both in June and November. Jerry Brown came close to denying him the nomination in 1976 and, conceivably, might challenge him again in 1980. With few exceptions, the Democratic establishment in the state initially was anti-Carter. Under these circumstances, it was not too surprising to find that the White House was not inclined to go out of its way to include California in its talent bank.

But the administration had piled up political debts to Cranston, who worked tirelessly since last year's Democratic convention to promote a Carter-Brown detente. Also, the President could not easily ignore Cranston in his new leadership capacity as Senate majority whip. Faced with many difficult legislative battles, he might well have been prepared to respond favorably to patronage requests from Cranston — if only they had been pressed on him.

But with Cranston showing little enthusiasm to exercise such power, the results were soon apparent. The top slots of the Carter Administration quickly were filled with Georgians, members of the eastern liberal establishment, Ivy League academics, friends of Vice President Walter Mondale and proteges of more assertive senators.

### Only a few Californians

A few Californians popped up here and there. Harold Brown, Caltech's former president, became secretary of defense. Charles Warren switched from the state Legislature to the chairmanship of the Council on Environmental Qual-

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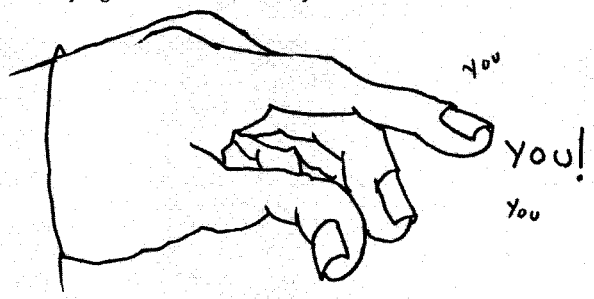
ity. Warren Christopher, a member of a high-powered Los Angeles law firm and behind-the-scenes adviser to Democratic governors and senators, was named to the number two post at the State Department. Stanford scientist Donald Kennedy assumed the top post at the Food and Drug Administration. Harold Williams, dean of the UCLA graduate school of management, took over the chairmanship of the Securities and Exchange Commission.

## Judicial Selection Committee

Members of the new statewide commission for selection of federal judges and U.S. attorneys in California:




### Cranston appointees

***Richard Silberman,*** chairman, former San Diego businessman and Brown Administration secretary of business and transportation.

***Vilma Martinez*** of San Francisco, president and general counsel of the Mexican-American Legal Defense and Educational Fund.

***Aileen Hernandez*** of San Francisco, an urban consultant and former president of the National Organization for Women.

***Sam Williams*** of Los Angeles, an attorney, former San Francisco 49er football player and new president of the Los Angeles Bar Association.

### State Bar appointees

***Anthony Amsterdam,*** Stanford law professor.

***Robert Gnaizda*** of San Francisco, senior partner in Public Advocates.

***Leopold S. Wyler*** of Beverly Hills, board chairman of the Tool, Research and Engineering Corporation.

### Hayakawa appointees

***Robert Naylor*** of San Francisco, member of the law firm of Pillsbury, Madison & Sutro.

***Frances McAteer*** of San Francisco, a community and civic leader.

*For a list of **Californians in the Carter Administration,** see page 214.*

Their presence in the administration, however, merely serves to underscore the point that the Carter Presidency produced no great eastward migration from California. Also, Californians who have assumed prominent positions in Washington generally got their jobs because of some Carter connections, not because their appointments were pushed through by Brown, Cranston or other Democratic party chieftains in the state. Whatever patronage favors Carter bestowed on California were designed more to build his own cadre of loyalists in the state than to forge closer links with the established party structure.

In fact, in a couple of exceptional instances when the Democratic congressional delegation strongly promoted a couple of candidates, the effort failed. Tom Quinn, a top Brown political lieutenant and chairman of the California Air Resources Board, was passed over for head of the Environmental Protection Agency. The other casualty was Tony Coelho, administrative assistant to Representative B. F. Sisk of Fresno, who also had the complete backing of the delegation and the Governor. Coelho was a candidate for assistant secretary of agriculture. He lost out apparently because Sisk broke with Carter during last fall's campaign over the Georgian's endorsement of Proposition 14, the farm-labor initiative. The agriculture post instead went to Robert Meyer, a Brawley grower and early Carter supporter. The message from the Quinn and Coelho debacles was clear: Not only was there little room for Californians in the administration, but what room there was would be reserved for people who did not give the White House cause to worry about possible divided loyalties.

### Patronage drought

The California patronage drought shocked the state's big 29-member Democratic contingent in the House. Senior members like delegation chairman John Moss of Sacramento still fondly remember happier spoils days during the Kennedy and Johnson Administrations when the late Senator Clair Engle huddled with them about political appointments and actively pursued such plums.

In early December, Moss contacted Cranston and asked him to revive the "Engle system." The Sacramento lawmaker warned that California already was losing "valuable time" while states like Washington, with aggressive lobbying by Senators Henry Jackson and Warren Magnuson, and Minnesota with the help of Mondale and Senator Hubert Humphrey were getting a head start in nailing down top posts. But Cranston showed no great sense of urgency.

"Alan will be attempting to do just as much for California as Clair Engle, but in his own way," said Roy Greenaway, the senator's administrative assistant. "He's not a demanding kind of person. He believes in friendly persuasion." The impatience of Moss and other delegation members turned to anger when Cranston passed the word that he was going to scrap completely the old patronage system for selection of federal judges and U.S. attorneys in California.

Discarding his senatorial prerogative to control such appointments, Cranston announced that he was establishing a nine-member, bipartisan, "blue-ribbon" commission to screen all applicants. Cranston appointed four of the commissioners. He let the State Bar fill three slots and Hayakawa two. Under a formal agreement reached by the two senators and the State Bar, the commission will select three to five names for each vacancy awaiting a presidential appointment. Its recommendations will go to the White House — with each senator reserving the right to append comments to the list but not to change it. For all practical purposes, this means that Carter's choice of federal district and appellate judges as well as federal prosecutors in California will be limited to a set of candidates picked by the new commission.

### Georgia's similar 'reform'

The president, who set up a similar "reform" system when he was governor of Georgia, has encouraged senators to emulate this departure from the old spoils system. Cranston predicted his move would produce better judges — at a time when the judiciary is extending its reach into virtually every facet of American life. But he made no mention of the fact that the commission also would relieve him of the politically sensitive task of choosing among competing candidates.

"I don't believe in handpicked judges or U.S. attorneys," Cranston declared. "I don't beleive they should ever be chosen because of their political pull or personal cronyism. Recommending federal judges, who may be on the bench for life,



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and U.S. attorneys who exercise federal prosecuting power is one of the most important responsibilities a U.S. senator has. Though the present system has led to the appointment of persons of exeptional ability, it has also been used to reward party workers and political contributors. I'd like to put an end to that."

On the other side of Capitol Hill, Cranston's move infuriated Moss and other California Democrats. They had seen eight years of Republican rule come to an end and clearly relished the idea of influencing judicial and U.S. attorney appointments in their districts through Cranston when, suddenly, their senior senator pulled the patronage rug out from under them. They promptly denounced Cranston for bestowing more power on Hayakawa than on California Democrats in the House. They also charged that the State Bar would have too much influence under the new set-up and that Cranston, in effect, had replaced the old patronage system with a less accountable, behind-the-scenes pulling-and-tugging operation which was going to be just as "political" but run by different players.

"I think it's crap," fumed Representative Augustus Hawkins of Los Angeles as he stalked out of a delegation meeting with Cranston. "We're abdicating our responsibility." "You can't take politics out of politics," remarked Representative George Miller. The Contra Costa County lawmaker said lawyers on the screening commission might gain an unfair advantage in court if they came up before state judges seeking promotion to the federal bench — or before federal district judges who have their eyes on the U.S. Ninth Circuit Court of Appeals.

Moss went so far as to threaten to withhold his support from Cranston's 1980 reelection bid. "If I'm going to be forced out, my interest in those who are forcing me out is going to be minimal and so is my interest in their political success in the future," he grumbled. A few Democrats in the House delegation, including John Burton of San Francisco and John Krebs of Fresno, came to Cranston's aid and tried to patch over the rift. But the preponderant reaction was negative.

### Hayakawa's surprise attack

Cranston nevertheless stood his ground. Before launching the commission, however, he had to repel still another attack from a different flank — this time a direct challenge by Hayakawa. Although the junior senator would have been completely frozen out under the old partisan spoils system, he insisted he was not going to be treated as a "minor" partner under Cranston's reform plan. Hayakawa objected to ground rules which gave him only half as many slots on the screening commission as Cranston (two versus four). He demanded complete parity (three-three). After a couple of days of tense negotiations during which Cranston aides accused Hayakawa of showing either unprecedented ignorance about political power on Capitol Hill or unprecedented gall, the freshman senator yielded and accepted Cranston's basic terms.

Left to their own devices, California Democrats in the House reacted in fairly typical fashion: They talked a lot but accomplished little. The House contingent, following the break with Cranston, set up its own patronage committee to coordinate political appointments with the White House. On January 19th, the eve of the President's inauguration, Moss said the delegation wanted an early appointment with Carter to boost Californians for top jobs in the administration "and to express our state's very strong interest in virtually every activity of the federal government." But it was not until March that the delegation conferred with the White House about patronage matters — and not with Carter but with Frank Moore, the President's chief of congressional liaison. By then, most of the top jobs were filled with non-Californians.

"I wish we had done this a couple of weeks ago," said Moore as he left the meeting with the delegation. But he held out the hope that there were still lots of lower-level political jobs as consolation prizes.

The delegation's patronage committee, headed by Krebs, finally got geared up and compiled lists of applicants sponsored by various House members for transmission to the White House. But an aide to Krebs acknowledged that no follow-up procedures were put into effect to determine if there have been any tangible results. To make matters worse, the delegation's first list, which contained 46 names, sought jobs which already had been filled and recommended several candidates for the same post. "We've got the delegation supporting four different people for regional director of HUD," observed one congressional staffer. "How can you possibly show any muscle that way?"

### Tragic comedy

California's patronage tribulations finally reached a comic low over the appointment of a U.S. marshal in Sacramento. To appease his disgruntled House colleagues, Cranston promised them some influence in this area. Selection of the Sacramento marshal, whose territory covers 32 counties, turned into a contest between deputy marshal Robert LaRoche and Amador County Supervisor John Begovich. When Cranston opted for Begovich, the senator's press secretary, Murray Flander, said Begovich had the backing of a majority of the Democratic congressmen in California's eastern judicial district.

Not so, shot back Moss, a LaRoche supporter. The six congressmen were divided right down the middle — three for Begovich and three for LaRoche. Which version was to be believed? Did Begovich have majority support among the affected congressmen or was it a tie? Cranston finally offered a clarification. The senator said he had caucused with the six congressmen and Begovich was the choice of "a majority of the seven of us."

Cranston refused to identify the mysterious tie-breaker, presumably to avoid retribution from LaRoche and his friends who vote in California elections. It was only in response to persistent press inquiries that he reluctantly acknowledged that he personally had tipped the scales in favor of Begovich. To make matters even more painful, the *Sacramento Bee* editorially castigated Cranston for having made the wrong choice. On balance, it was an episode which fully vindicated his estimate of last December that patronage-dispensing without Tunney was going to be a lonely and hazardous task.


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'COURT OF LAST RESORT'

# The Assembly's graveyard for law-enforcement legislation

By CYNTHIA ROBERTS

For many years, law-enforcement organizations have been protesting the failure of the Assembly Criminal Justice Committee to be responsive to public demands for tougher anti-crime laws. On the floor of both the Senate and Assembly, police organizations usually get what they want — whether the issue be the death penalty or increased fines for shoplifters. But they are stymied repeatedly in the committee, which votes regularly with the American Civil Liberties Union (ACLU) and other advocates of liberal causes.

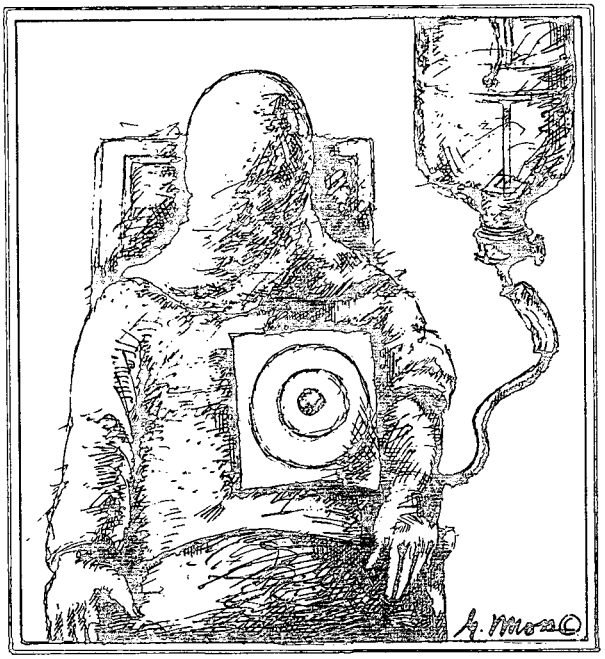
In this year's controversy over reinstitution of capital punishment, Republican Senator George Deukmejian could have maneuvered almost any bill he wanted through the Senate. The key question, as always, was whether he could get anything from the Assembly Criminal Justice Committee — even though there was a majority waiting on the Assembly floor to vote for a death-penalty measure.

As it turned out, the committee passed a weak capital punishment measure out of political necessity. The alternative would have been a strong bill written on the floor. And the committee won an agreement from Deukmejian not to accept any amendments that would stiffen the bill. This meant that even if Governor Brown's anticipated veto were overridden, California would have a relatively weak law.

Under the Deukmejian bill, the death penalty could be imposed for a variety of murder cases with aggravated circumstances, such as murder for hire, the killing of crime witnesses, the slaying of police officers, torture and bomb deaths and murders by prisoners serving life sentences. Following conviction, separate determinations could be made whether there were mitigating circumstances and whether the death penalty should be imposed. As amended by the committee, the bill would allow juries to give life imprisonment without possibility of parole even if the death penalty were legally warranted. Also, if a jury were to deadlock on the penalty, the death penalty could not be imposed; a new jury could not be empaneled.)

### Committee unrepresentative

If the committee is so unrepresentative of Assembly views, why is it allowed to survive? Why don't the Assembly members put so much pressure on the Speaker that he is forced to construct the committee in a way that is more favorable to law-enforcement organizations? The answer is that the public stance of the Assembly, as evidenced by roll-call votes on bills, is quite different from the private feelings of the members. The Criminal Justice Committee has always had a strong civil-libertarian coloration because



most of the Democrats and some of the Republicans want it that way. The majority wants the handful of liberals on the committee to prevent conservative crime-and-punishment measures from reaching the floor, where they are sure to pass.

It is only under extraordinary circumstances, such as with the death penalty, that the committee can't take the heat and must allow a bill to survive that it would rather kill. The key vote for Deukmejian's bill was cast by Democrat Frank Vicencia, who said he was doing so because of political realities and not because he favors capital punishment. Negotiations on the substance of the measure were conducted by Majority Leader Howard Berman, another death-penalty opponent and Speaker Leo McCarthy's main man on the committee. If the issue had not been so political, with Democrats fearing the consequences of a strong death-penalty measure on the ballot next year, the bill would have died. The committee, from a liberal viewpoint, did the next best thing. It made sure that the bill sent to the floor was the weakest bill obtainable.

Last September, the California Peace Officers Association and allied organizations launched a campaign to reconstruct the committee, which the law-enforcement spokesmen labeled the "graveyard of criminal justice legislation." The committee took special aim on then-chairman Alan Sieroty and Speaker pro Tempore John Knox, two veteran members of the committee who voted regularly along ACLU

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lines. Knox is still on the committee, and Sieroty since has been elected to the state Senate. The committee, however, still tilts to the left.

Democratic members of the Criminal Justice Committee don't accept appointment to the panel unless they can take the heat. From the standpoint of civil libertarians, this committee acts as a "court of last resort" that prevents the Legislature from running wild enacting bills with potential constitutional violations. Brent Barnhardt, advocate for the Northern California ACLU, says the committee is the only entity in either house that looks at crime legislation in depth.

### Cry for stronger laws

The cry for stronger laws is fueled each year by publicity about violent crime and adverse crime statistics. Some legislators respond by introducing a variety of proposals to create new crimes or stiffen penalties for the old. Invariably, these bills are put to rest in the Criminal Justice cemetery. The author has done his or her duty, and the committee can be blamed.

By contrast, the Senate Judiciary Committee has been a relatively soft touch over the years for law-enforcement organizations. The ACLU doesn't even bother to work that Senate committee, assured by the knowledge that the proposals will be in good hands in the Lower House. The Peace Officers Association reported that last year 19 pieces of law-enforcement legislation cleared the Senate without opposition only to die in the Assembly committee.

From the way some members of the Criminal Justice Committee were attacked last year, it might appear as though the hard-line attitude of the liberal majority is something new in Sacramento. In fact, the committee has been operating more or less the same way since it was created in 1959 as the Criminal Procedure Committee. Since that time, there have been almost as many Republican chairmen as Democrats. But the conservatives have never controlled the committee, and all of the Republican chairmen have been moderates, including the current head of the panel, Ken Maddy of Fresno.

The principal architect of the committee was former Assemblyman John O'Connell of San Francisco, who had served as a member of the Assembly Judiciary Committee. During the late 1950's, the judiciary panel met in the evenings, sometimes four days a week, with sessions often lasting until midnight. O'Connell started pressing for an independent committee solely concerned with the criminal code. After the 1957 session, O'Connell was appointed chairman of an interim subcommittee on constitutional rights., His main concern was reforming the vagrancy statute, which he claimed was being abused by the police. He succeeded in obtaining changes in the law.

### Committee's first test

When the Democrats swept the election of 1958, O'Connell asked the new Assembly speaker, Ralph Brown, to create a new "Committee on Constitutional Rights and Criminal Law." Brown agreed to the structural change but not to O'Connell's name for the committee, opting for the criminal procedure title. Most significantly, O'Connell was named chairman and was allowed to pick his own committee members. O'Connell stacked the committee with liberal Democrats, saying his prime duty was to "stop those crazy bills" and "stick to a literal interpretation of the First Amendment."

O'Connell's first major test came after the state Supreme Court ruled in the *Kahan* case that evidence obtained illegally is not admissible in a narcotics case. Legislation was then introduced to allow the use of such evidence, but the

Knox Deukmejian Sieroty

bill was killed in the "Crim Pro" committee. The exclusionary rule of the *Kahan* case remains in effect to this day. O'Connell and company also killed a series of obscenity and wiretapping bills. In fact, the committee passed out legislation designed to make wiretapping even more difficult.

Although O'Connell left the Legislature in 1962 to run for Congress (unsuccessfully), his memory lingers to this day. Liberal Democrats have had the O'Connell tradition passed on to them from session to session like *griots*, or verbal historians, in Alex Haley's "Roots." According to legend, O'Connell once declared that he would throw a bill into the Sacramento River rather than see it pass. Those were the days when most of the work of a session took place in the last 48 hours and a missing bill could not always be replaced overnight.

O'Connell was replaced as chairman in 1963 by a moderate Democrat, Gordon Winton, who was given the job as his reward for having opposed Jesse Unruh for the speakership. Unruh apparently felt that the heat of the Crim Pro committee might hurt Winton with his Central Valley constituents. But Winton proved more liberal than conservative, and the committee changed little. Winton still remembers in detail when his office was invaded for two days by supporters of Max Rafferty, then superintendent of public instruction, who wanted the *Dictionary of American Slang* removed from the public schools. Winton observed that the two pages of excerpts distributed by the protesters were more obscene than the book they opposed. The bill was killed by the committee.

Perhaps Unruh was right. In 1966, Winton supported a liberalized abortion bill. He was defeated a few months later. But abortion wasn't his only problem. His district was reapportioned to include Santa Cruz, and he was defeated by an eager young lawyer from Santa Cruz, Republican Frank Murphy, who eventually became a chairman of the "court of last resort."

### Republican chairmen

Democratic speakers saw an advantage in appointing Republicans to head the committee. It reduced the political pressure that might be applied on Democrats assigned to the committee. For a six-year period starting in 1967, Republicans ran the committee, with Craig Biddle, Murphy and Robert Beverly each serving two-year stints. Speakers also employed another tactic to prevent conservatives from



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taking control of the panel — the assignment of an even number of members to the committee. This meant that if there were three conservatives and three liberals on the panel, bills favored by police organizations would generally die because four votes would be needed to pass a bill to the floor.

Even when a Republican, Bob Monagan, was speaker of the Assembly, those seeking drastic changes in the criminal laws did not get their way. The chairman during Monagan's speakership was Murphy, a shrewd politician with strong feelings about constitutional law. He was given the job during an especially difficult time, when law-enforcement expectations were high and there were campus disorders in the state.

Heavy pressure was put on the Legislature to get tough with campus troublemakers. Monagan left it to Murphy to solve the problem. Murphy understood that a tough law-and-order bill would have no effect on the riots. But he also knew that, politically, something had to be done. His staff wrote a bill that did nothing more than add some fiery rhetoric about campus conduct to the basic disturbing-the-peace law. The bill, which did nothing, satisfied the conservatives and gave lawmakers something to show the public. "This was necessary," recalled Murphy, "in the tenor of the times."

Murphy also was under heavy pressure to adopt for California the federal rules allowing the controlled use of wiretapping by law-enforcement agencies. There was strong pressure from then-Governor Reagan and Republicans in favor of the measure. The committee at that time had seven members, but was split three to three, with Murphy the deciding vote. Murphy voted his views as a lawyer and not those of his Republican colleagues. "The bill was disposed of appropriately," he said.

### Targets: Knox and Sieroty

Speaker McCarthy appointed a Republican, Maddy, to head the committee following several years in which liberal Democrats, the late Robert Crown and Sieroty, headed the panel. Crown had served on the O'Connell committee and felt that the way to improve law enforcement was to raise the caliber of the cop on the beat, not to enact repressive laws. Sieroty was undoubtedly the toughest civil libertarian to head the committee since O'Connell, and that made him a target of the Peace Officers Association.

In addition to Sieroty, the law-enforcement groups singled out Speaker pro Tempore John Knox for political eradication. This is probably because Knox has been a strong civil-libertarian vote on the committee for a long time. When he was first elected to the Assembly in 1961, one of his first assignments was to the O'Connell committee. He remained a member until 1969 and returned in 1975. But even during the hiatus, he kept in touch with the committee's activities through his seatmate, Crown.

Knox sees the committee as the last legislative bulwark for civil liberties. "You can compromise on just about any piece of legislation around here, but when it comes to individual rights, you can't mess around." he emphasized. The organizations which attack the committee, he added, forget about the good things the committee has done for police in the form of additional benefits, training and equipment allowances. In fact, it has been the liberals on the committee who have been most generous with law enforcement in the expenditure of state funds. (The police organization most interested in benefits, the Peace Officers Research Association of California, usually supports the liberals at election time.)

Over the years, Knox recalls, the committee liberals have had the most trouble with bills that establish new crimes or increase penalties which are supported by organized demonstrators. The Elks organized a push for a bill giving the death penalty to convicted heroin peddlers. The proposal was killed by the committee, and the members had to leave the committee room by the side doors to avoid irate Elks. The Jewish War Veterans wanted the committee to approve a bill making it a felony to advocate genocide. Two of the members, Crown and Anthony Beilenson, were Jewish. But they made it clear they would not vote to make the advocacy of anything a crime.

From reading the attacks of the Peace Officers Association, it might appear that the liberal members of the Criminal Justice committee are out of favor with the rest of the Legislature. In fact, just the opposite is the case. According to Knox, many of his colleagues have an "unspoken appreciation for the delicate and difficult work done by those assigned to sit on the so-called 'court of last resort'."


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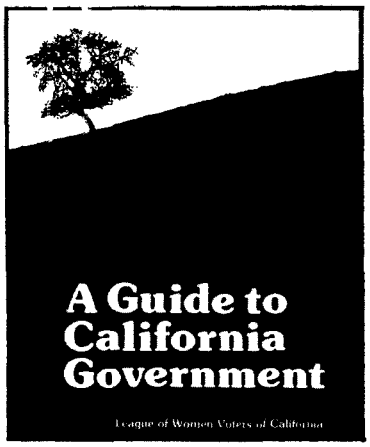


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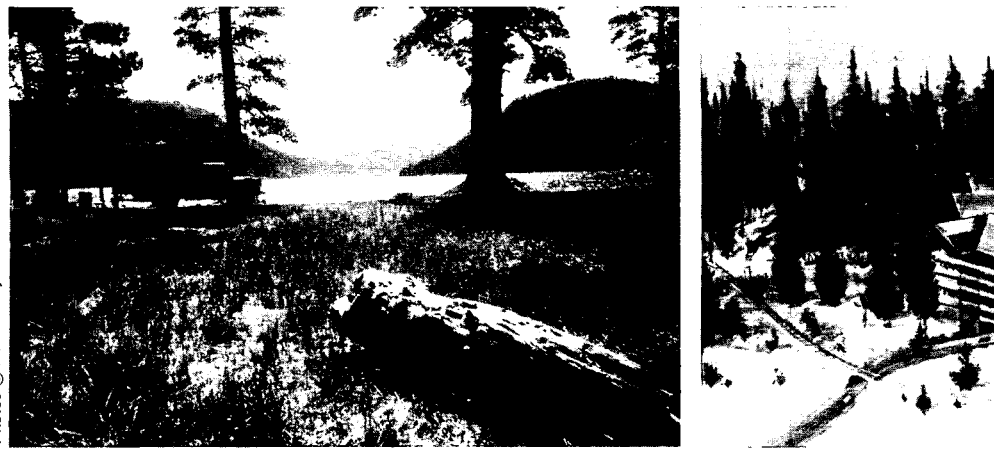
# Independence Lake resort -- Mineral King revisited?

*By Bob Goligoski*

A quiet, alpine lake 13 miles north of Truckee may well be California's next major environmental battleground. For it is here at Independence Lake that Walt Disney Productions wants to build a winter-summer recreational complex expected to cost $73 million, "give or take 10 million," in the estimate of project manager Robert Hicks. And that's only the tab for the "initial" development stage. When and if the resort if "ultimately" developed as envisioned, the price tag will balloon to an estimated $125 million.

There appears to be little doubt that the Burbank-based corporation has the money to build the dream resort, with emphasis on skiing, that the late Walt Disney always wanted to open. What is in doubt is the firm's ability to obtain all the county, regional, state and federal permits and approvals it will need if it hopes to open the resort on Thanksgiving Day, 1980, as planned — not to mention the inevitable lawsuits that could sentence the venture to limbo for years. Look at what happened to Mineral King — the ill-fated Disney proposal to erect a similar resort near Sequoia National Park in Southern California. In 1969, soon after the Mineral King plans were revealed, the Sierra Club sued the U.S. Forest Service to block the project. The litigation, pending in the courts since then, was thrown out of a federal court in March because it had been dormant for so long.



Photos ©Walt Disney Productions.

How Independence Lake looks today (left) and how the area would be developed by the W

### Future news controversy

The simmering controversy over the Independence Lake proposal is expected to erupt across the front pages of state newspapers later this year when public hearings will be conducted in Sierra County. The hearings will be called to determine if certain lands should be rezoned and the county's general land-use plan altered to permit construction of the resort.

The 165,000-member Sierra Club has yet to take a position on the Northern California project. But its Sacramento chapter has formed a special task force to scrutinize the 1,000-page report Disney submitted to various governmental agencies outlining what it plans to do in the High Sierra. The Sierra County Conservation Club, which claims a membership of 250, already has taken a stand against the proposal because it "will be damaging socially, economically and environmentally," in the words of Janet Edson, an organizer of the club. But the Sierra City woman emphasizes that "we don't plan to file any lawsuits. We want this to be a decision of the people, not the courts. And we think that once all the facts about the resort, and its likely impacts, get out that there will be such an uproar that Disney will drop the idea."

Hicks doesn't think that will happen. He tells critics of the plan that "we are not bent on ruining the environment. We are not planning a Disneyland-in-the-mountains. It will not be an amusement park." Disney pulled a public relations blunder when the project report included details of how it plans to "ultimately" develop the lake area instead of simply citing the size and number of facilities for which it is currently seeking permits. Rather than noting that the resort would open with 13 ski lifts capable of carrying 12,800 skiers an hour to the top of three peaks, Disney also revealed that at some indefinite future date, at least five more chairlifts would be added to increase the uphill hourly capacity to 21,600 skiers.

When the complex is ultimately developed, 22,455 persons would frolic at the resort on a busy winter day. Among them would be as many as 18,000 skiers. That's more than the number who presently come to Alpine Meadows and Squaw Valley combined, two major ski resorts about 10 miles south of Truckee (23 miles away from the proposed Disney site). The corporation grandly proclaimed that 3.25 million persons would visit the resort each year after it was totally developed. Instead of merely stating that there initially will be overnight winter lodging accommodations for 2,500 persons at the resort, Disney also boasted

*The author is a reporter-editor with the* San Jose Mercury.



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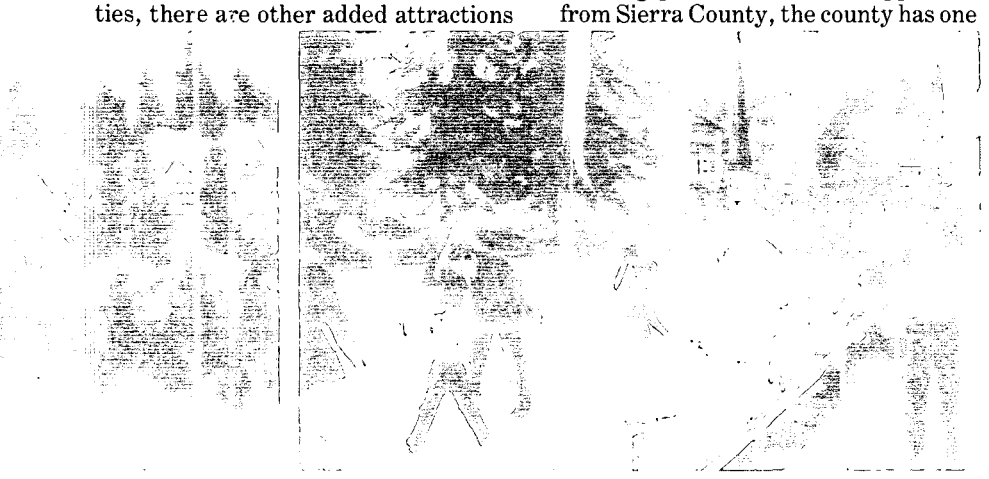
that ultimately 7,825 persons would be able to find beds there.

### Size cause for fear

Those are big numbers, especially in a rural, rather isolated and sparsely developed county of only 3,000 persons. The sheer size of the venture frightens some Sierra County residents. "Our plan," explained Hicks, "is now the initial plan for which we are seeking approvals. We have erased the ultimate plan because people have been quoting the ultimate figures and why should we buy trouble and use those ultimate figures."

Besides the aforementioned facilities, there are other added attractions



isney Organization — if the corporation can get the permits necessary to build the resort.

which sooner or later Disney wants to unveil in the shadow of 9,143 foot Mount Lola. They include: A pedestrian village with 70,000 square feet of space for shops and stores, a recreation center, a large health spa, three theaters and at least two ice skating rinks. Dock space for 100 boats on the two-and-a half mile long lake, 12 tennis courts, bike routes and hiking trails, an equestrian center and a child care center. And, eventually, 1,120 condominiums would be constructed although a Disney spokesman hastens to add that "this won't be a real estate development. We won't be selling lots."

Disney will set aside 300 campsites initially (100 winterized) and add 200 more if the demand is there. The entire spread would be linked by a 17-mile-long electric railway that will also wisk hungry sightseers and skiers to a 400-seat mountain-top restaurant. There would be housing in dormitories and condominiums for some of the 750 employes who would toil at the resort during peak season.

There are 17,440 acres within the project's boundaries. About 10 percent of the land would be developed. Some 9,500 acres of that land is owned by the Southern Pacific Land Company and the Sierra Pacific Power Company. Disney has entered into a limited partnership with the two firms. Disney wants to exchange privately held Sierra land, outside the project area, for 2,800 acres of federal land near the lake to consolidate land holdings. Vital base facilities would be erected on those 2,800 acres. Disney also has to obtain special use permits from the forest service to erect chairlifts and cut ski trails through the timber.

### Environmental impact statement

After Disney files for the needed building permits and other approvals from Sierra County, the county has one year under state law to compile an environmental impact statement. The forest service also will prepare a separate environmental impact report or file one jointly with the county.

Water used by the resort would be obtained from wells. A tertiary treatment plant would be built to treat waste water that ultimately would amount to one million gallons a day. The treated waste water would be discharged to leaching fields from whence it would trickle down to the water table. Disney will have to acquire a discharge permit from the regional water quality control board.

Hicks said that at least 17 different state agencies have "review and comment" authority (not necessarily the power to deny needed permits) over the project and can pass on its merits or flaws. He noted that "we have held a series of meetings with officials from those agencies to find out how to get through the red tape as expeditiously as possible. The meetings have established the concerns of agencies that will be granting permits or commenting on the environmental impact report . . . . The state wants to make sure that this does not turn out to be another Dow-type situation. There was a lot of flack over that and the state officials want to make sure that we know what is included in the entire application process."

His reference was to the Dow Chemical Company and its abortive attempt to build a $500 million petrochemical plant in Solano County. Dow pulled out of the project in January saying that more than two years after submitting its application, only four of the 65 required permits from 12 different agencies had been obtained. Hicks believes that "the climate is tougher now" to build a major ski resort in California than it was when Mineral King was proposed in 1965. "But," he adds, "the need is greater so that is in our favor." He anticipates "a weaker public outcry" over Independence Lake because, unlike Mineral King, most of the project would be built on private lands.

### Teeth-jarring access road

Access to the lake presently is via a five-mile long, teeth-jarring dirt road that forks off State Highway 89, the connecting link between Truckee and Sierra County. The road would be realigned, widened and paved. The lake is 25 miles north of Lake Tahoe and outside the Tahoe Basin. It is 192 miles from San Francisco and 50 miles from the Reno, Nevada, jetport.

The "locals" do a fair amount of fishing in the trout-filled lake while hunters blast away at deer in the nearby mountains as soon as the season opens. The roar of snowmobiles shatters the stillness of winter days. There is a look of devastation in some sections where logging "cats" have torn through the forest. So, the Mount Lola area can hardly be classified as a "pristine wilderness."

Still, it is a wilderness to people like Janet Edson and other so-called "environmentalists and conservationists. "There are people up here," she stressed, "who came to Sierra County because of the lifestyle here. They like it here. There are no stop lights in the whole county. You can get credit at the country store and set up a tab, and you can't do that at Safeway. You know everybody around here. When you're in trouble, you always have someone to turn to. And that doesn't happen when you have an influx of people, such as Disney would bring, and a transient population."

Most of the so-called impact from the resort would be felt in Truckee. It would be the gateway to the resort and many who chose not to eat or sleep at the resort likely would do so in Truckee. Disney's critics paint a gloomy



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picture of what Truckee, with its estimated population of 2,400, will be like if the resort is built: More traffic congestion, air pollution, crime, unemployment (people seeking work will outnumber the available new jobs), more governmental bureaucracy, more people on welfare and higher property taxes to pay for the increase in public services.

Truckee is in Nevada County. The resort would straddle the Sierra-Nevada county line with virtually all of its structural facilities lying in Sierra County. This means, say the detractors, that "Sierra County will get all the property tax benefits while Truckee will get all the problems." According to Disney calculations, Sierra County will reap an annual $1 million bonanza in tax revenues from the resort. The entire county budget was $2.8 million last year. Nevada County would get about $300,000 a year in additional tax revenues from several sources including sales, room occupancy and gas taxes. Hicks notes that "we estimate that the increased yearly costs to Nevada County for services will be about $150,000."

### Truckee trouble?

Gene Covert, a Nevada County supervisor, believes that the project will cause "substantial adverse impact in Truckee. We have a problem now in the Truckee area with sewer and water services. We don't have the sewage capacity to handle all the lots in the Truckee area now . . . . The resort would bring a lot of people into this area, and the social-services aspect of this could be a nightmare."

To counter the mounting opposition to the resort, an estimated 100 residents in Sierra County have organized the Sierra County Citizens for Economic Survival to support the venture. One liquor store owner in Truckee, who may well be speaking for the area business community, declared, "I'm all in favor of it. It would bring in bucks. The only way it'll change my lifestyle is to make it better. All the other ski resorts we have around Truckee haven't changed the town that much. And don't use my name because some people who feel otherwise around here might stop walking in that door."

There are approximately 15 existing ski resorts within 40 air miles of Independence Lake. The Los Angeles-based Far West Ski Association, which claims 30,000 members in California, is urging them to lobby federal and state officials to support Disney's resort. An association advisor observes that since 1970, the number of California skiers has doubled to one-half million while only one new ski area (Kirkwood) has opened in the state since then. In light of the two-year drought, however, California skiers may not need more ski resorts as much as they need more snow.

# California *CAPSULES*

**Roos, Smith in June 21st runoff for Warren's seat**

Democrat Mike Roos and Republican Dan Smith emerged from a large field May 24th as the candidates of their parties for a June 21st runoff election in the 46th Assembly District. The Los Angeles seat was vacated by Democrat Charles Warren, who resigned to become chairman of the federal Council on Environmental Quality. Roos, former executive director of the Coro Foundation, spent more than $100,000 to get 6,042 votes in the heavily Democratic district. Smith, a Black bank executive backed by the Republican machinery in the state, spent about $35,000 for his 2,952 votes. Roos, with 24 percent of the vote, ran surprisingly far ahead of Democrats Lois Yudovin, longtime Warren assistant; Sabrina Schiller, who had almost won a state Senate seat last year, and Burt Wilson, who had been endorsed by the Tom Hayden organization. The results: Roos 6,042; Yudovin 3,669; Schiller 3,521; Smith 2,952; Kaz Umemoto (D) 2,064; Wilson 1,935; George Hardie (D) 1,081; Don Holinsworth (R) 1,011; Don Amador (D) 610; Martin Milas (R) 598; Joe Abella (D) 496; Howard Watts (R) 414; Roland Cayard (R) 202; Sue Welsh (D) 179; Kimball Stark (D) 126; Benny Carter (D) 124; Don Mosser (D) 72.

**Use of retired, defeated judges stopped by Bird**

State Supreme Court Chief Justice Rose Elizabeth Bird has halted the practice of giving temporary judicial assignments to retired judges who have been defeated at the polls. The practice came under fire when former Santa Barbara Superior Judge Floyd C. Dodson, on temporary assignment to the Ventura County Superior Court, was chosen to preside over a murder trial. Dodson had retired before his term expired but after his defeat in November. (See "The schizophrenic voters of the Santa Barbara area," *CJ*, May 1977.) Two legal efforts to remove Dodson from the case have failed. Through a spokesman, Bird said she made the policy change because "the people had spoken at the ballot box" and it would be inappropriate to "second guess the will of the people." The six or eight retired but defeated judges will be allowed to complete their present assignments but will not receive future appointments. This policy does not apply to retired judges who did not suffer defeat at the polls. Bird is encouraging temporary promotion of trial judges to higher courts when needed.

**Little Hoover unit, Brown, Procunier mix in controversy**

It all started when the Little Hoover Commission through its chairman, Nathan Shapell, criticized the $2.6 billion Medi-Cal program as "administratively out of control." Shapell said the crisis predicted in the Commission's report of January 1976, which assailed the Department of Health for both Medi-Cal and mental-hospital administration, "is here and growing." Raymond Procunier, chief deputy director of the department, responded that Shapell is unable to "cope with reality" and that to make such allegations "displays a strong lack of knowledge." Governor Brown chose this juncture to request that the members of the commission comply with the Political Reform Act of 1974 and file financial-disclosure statements with the Fair Political Practices Commission. Brown said this is a reasonable request to members of a "commission which has broad and sweeping powers." Shapell replied that the attorney general's office had advised the commission that, because it is only advisory, it is not required to file financial data. Shapell threatened a court test and declared that he and other members of the commission feel "this is so-called revenge from the Governor's office."


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# Pressure, the mother's milk of the state's consumer movement

By ROBERT FEINBAUM

On January 6th, California consumers won a victory that could save them between $50 and $100 million this year alone. On that day, then-state Director of Food and Agriculture L. T Wallace suspended minimum retail prices on fluid milk, marking the end of a three-year battle on the part of a coalition of consumer groups. It showed the rising power and the new sophistication of the consumer movement in the state.

For nearly 40 years, the state put a floor under the price at which milk could be sold to the consumer. It enforced that price even though retailers were making large, and sometimes unwanted, profits on milk sales. State-set minimum milk prices originally had good logic behind them. During the depression, food markets sold milk at below cost and dairymen dumped milk by the side of the road. Bloodshed almost occurred.

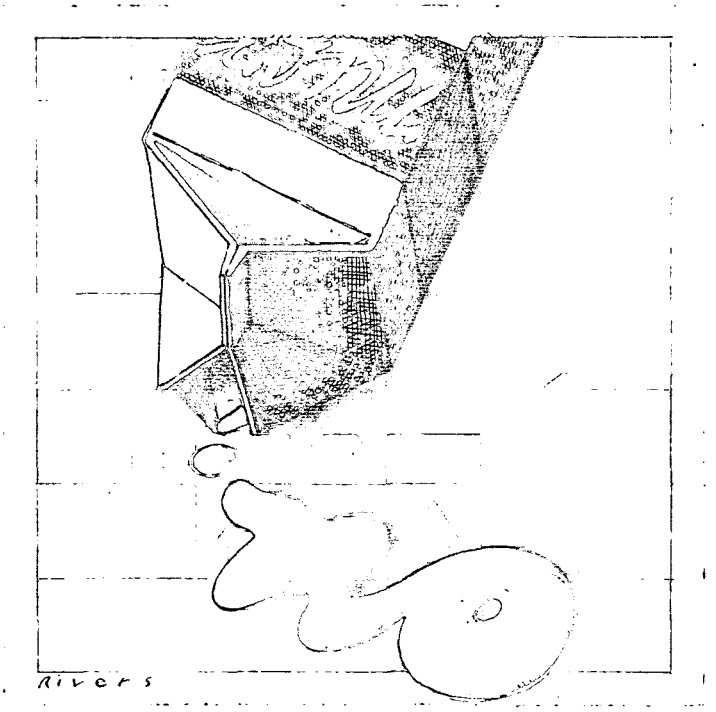
Out of that turmoil came the Desmond Act of 1937 which empowered the state director of agriculture to establish minimum wholesale and retail prices for milk throughout the state. The purpose, as the state's Bureau of Milk Stabilization maintained, was to assure "a continuing supply of milk by maintaining a reasonable amount of stability and prosperity for producers and distributors." But "stability" and "prosperity" came at the consumer's expense.

During 1973 and the first half of 1974, milk prices jumped several times. In response, consumer groups led by the Berkeley Consumers Co-Op and the California Citizens Action Group (CAL-CAG) petitioned the Department of Food and Agriculture to hold public hearings. Prodded by a resolution from the Legislature, the department eventually did hold hearings, which they used to justify their activities. A "Fight and Switch" campaign was kicked off on Mother's Day, May 12th, 1974. It was designed to get consumers to substitute lower priced powdered milk for fluid milk. Still nothing changed.

### First consumer victory

Consumer activists scored their first victory early in 1975 when the new Brown Administration denied a price increase requested by milk producers. In the Legislature, milk pricing became a hot issue. Consumer groups pressed for bills that would have changed the price laws. All went down to defeat either in the agribusiness-dominated Assembly Agriculture Committee or in the Senate Finance Committee. The dairy industry had its own bill, termed a paper-reform by consumer activists, but it was vetoed by Governor Brown.

While the legislative maneuvering was going on, Wallace




suspended retail milk controls in Sacramento as an experiment. Prices immediately dropped from 68 cents to 59 cents for a half gallon. Two weeks later, it went up to 63 cents and, gradually, climbed back toward the controlled price level. Some 18 months and a report by the Department of Food and Agriculture later, it was clear that no adverse effects had resulted from retail milk competition. Chain stores had not forced smaller competitors out of business, distributors had not gone bankrupt and Sacramento area consumers saved almost $2 million by consumer group estimates.

On February 13th, 1976, the Co-Op lowered its price on half gallons of milk from 69 to 61 cents — below the official price level. The next day, at the Department of Food and Agriculture's request, an Alameda County Superior Court judge issued a temporary restraining order forbidding the Co-Op from selling milk for less than the state-set minimum. Co-Op and its lawyers, Public Advocates, announced they would challenge the regulations. Roy Alper, CAL-CAG's director, found the Department of Food and Agriculture's alarm at milk being sold below cost an amazing indication of the dairy industry's power. "But the department does nothing when markets sell coffee or sugar below cost," commented Alper.

After the restraining order, over 55,000 shoppers signed petitions in support of milk price cuts and some of the major

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news media editorialized in favor of the Co-Op move. Wallace, as director of food and agriculture, called a series of seven public hearings, after which he announced the minimum price control suspension. As part of the bargain, the Co-Op agreed to drop its suit challenging the state's authority to set the milk prices — a suit participants thought Co-Op was likely to win.

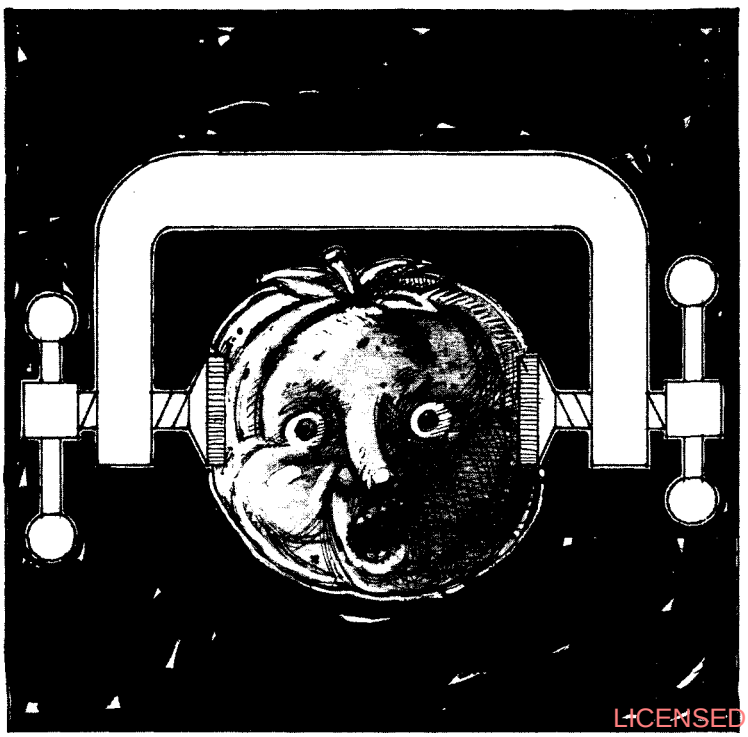
### Co-Op, a pivotal group

Although milk price de-control was a unique issue, it brought together a coalition of groups — each with its own priorities, ideas about tactics and its own way of approaching issues. Within the range of these groups, the Co-Op occupies a pivotal role in the California consumer movement. Other groups can exert pressure, but they still must depend on someone else — some level of government or some private business — to take action to meet consumers' needs. The Co-Op can act directly. It has demonstrated that consumer protection can be coupled with sound business practices to move closer to the goal of an equitable marketing system.

Although the Berkeley Consumers Cooperative is not the oldest in the state, it is by far the largest. The Co-Op now has 13 food stores in the Bay Area, doing $72 million in business each year. It is governed by a nine-member board of directors, three of whom are elected each year by the organization's 86,000 members. The operation is run by a general manager who takes policy direction from the board.

Under the general manager is an education director who coordinates consumer information activities. In the last fiscal year, the Co-Op allocated $663,000 — over four percent of its operating budget — to the education department. Each store has an education assistant. The Co-Op also publishes a weekly newspaper to advertise special buys, supply consumer tips and information about consumer issues and provide an open forum for member comments. As part of its consumer protection function, the Co-Op employs a staff of home economists.

Over the last few years, the Co-Op has taken the lead on a number of consumer issues. In 1973, it rolled back beef prices by 15 percent. It also pioneered a bin produce program. Initially, it got the state to suspend marketing standards for cling peaches so that produce previously discarded could be sold at low prices to consumers. As a result of that successful experiment, all Co-Op produce departments were remodelled to sell fruits and vegetables in large bins. Recently, the Co-Op adopted a "Lifeline Foods" policy. Each week, it cuts margins on some highly nutritious foods to "provide good basic food at the lowest possible price."



When it comes time to take stands on social issues that affect consumer interests, there is usually a split both within the board and among the membership. The conflict between the progressives and the traditionalists within the Co-Op parallels a split in the consumer movement as a whole. The progressives place a high priority on social action and would organize members to demand changes. They find a kinship with the community-organizing wing of the consumer movement and with the United Farm Workers. Traditionalists rely primarily on education to advance the consumer's interest. They would make facts available on products and services so that shoppers could make better buying decisions. They identify more with the researchers than the organizers, with the disseminators of consumer information rather than the "hot and sweaty" activists who lead picket lines and demonstrations.

Three examples of research-oriented consumer groups are the Consumers Union, California Citizens Action Group (CAL-CAG), and the San Francisco Consumer Action (SFCA) group. Until the early '60s, the public identified consumer protection with the Consumers Union. In those days, it was truly a "voice in the wilderness." The group's magazine, *Consumer Reports*, is still the most widely read consumer publication in the country. (An estimated 300,000 Californians receive it monthly.) Two years ago, the Consumers Union opened a West Coast branch in San Francisco. Explaining why, CU's Henry Snyder noted that "there is more consumer awareness in California." What the Legislature and judiciary do here is often followed by other states and, thus, "will have a multiplier effect throughout the country."

Ralph Nader directly inspired one of the consumer groups in the research category, the California Citizens Action Group. In 1973, he sent staffer Richard Spohn (now head of the state Department of Consumer Affairs) to Los Angeles to work with a Southern California group headed by television producer Norman Lear and start a statewide group. The outfit raised enough funds in three months to send a full-time lobbyist to Sacramento — the first full-time consumer lobbyist on the scene.

CAL-CAG membership now stands at 2,000 and the group has three lobbyists, a communications coordinator, a canvassing director and paid people in its Sacramento and Los Angeles offices. CAL-CAG has been active in a variety of issues from surveying Los Angeles banks in order to check for violations of the Truth-in-Lending Act to challenging the state law prohibiting price advertising for eyeglasses. The group is currently organizing political networks in each assembly district to put pressure on legislators when consumer bills come up.

### Use of picketing

Shortly after the San Francisco Consumer Action group started, British Motors Corporation refused to make any restitution to a woman whose used Jaguar stopped running. SFCA picketed the dealer's showrooms. The company retaliated with a million dollar lawsuit charging libel, slander, extortion and conspiracy. With the help of the American Civil Liberties Union, Consumers Action defeated the British Motors suit, thereby establishing the consumer's right to demonstrate against offending businesses. Concurrently with the British Motors action, SFCA conducted an investigation of recalled Chevrolets. It showed that dealers were not making the necessary repairs on the cars. After the Chevrolet story broke, a major television network was



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forced to show the first "counter advertising" on the West Coast.

SFCA started out as a service organization with staff members doing most of the case work on complaints. Finding that better results were obtained if members tried to solve their own problems, consumer resolution committees were formed. Members meet and listen to each other's grievances, settling on a course of action. Initially, they write a letter asking for restitution. If that doesn't work, a delegation of committee members may negotiate personally with the businessman. If that tactic fails, the committee may form an informational picket line in front of the offending store. In two and a half years of operation, these resolution committees have recovered over a quarter of a million dollars.

SFCA also publishes a number of consumer guides. Over 25,000 of its *Break the Banks*, a guide to the best buys in banking services, have been sold. A similar publication on savings and loan associations, released several months ago, already has sold 6,000 copies. The group published an exposé of the department of consumer affairs under the Reagan Administration, and is currently investigating optometric services.

An example of what can be accomplished with research is a recent incident involving the Bank of America. While doing an investigation on bank auto loans last October, SFCA researchers ran across a Bank of America ad proclaiming its interest rates for automobile loans were the lowest available. Finding the bank's interest rates were among the highest, SFCA turned the information over to the San Francisco district attorney's office. After the district attorney filed suit, and while insisting it had done nothing wrong, Bank of America yanked the ads, lowered their interest rates and settled out of court — $175,000 in refunds to loan customers and $100,000 in civil penalties to San Francisco.

### Emphasis on organizing

The Citizens Action League (CAL) was created in a mold different from any of the research-oriented organizations. Calling itself a mass-based, democratic, multi-issue citizens' organization, CAL organizer Mike Miller followed a model set out by his mentor, Saul Alinsky, and developed a strategy aimed at winning "concrete reforms and benefits" in order to "give people a sense of their own power."

First launched as Electricity and Gas for People (PG & E turned around), the Citizens Action League's successful drive for lifeline rates — the smallest users pay the lowest amount -- set the tone for future action. During its campaign to get the Legislature to adopt lifeline, the group confronted PG & E directors at their offices and at stockholders' meetings. It packed Public Utilities Commission hearings, demanding a change in the utility rate structures. It organized 1,000 supporters for a citizens' lobby day in Sacramento.

The major difference between a group such as CAL and a research-oriented group is tactics. Most research groups would be unlikely to organize a demonstration or confront a corporation head. Research groups rely heavily on staff. CAL's local "action teams" function the way most neighborhood groups do, emphasizing participation and self-determination of priorities. Statewide priorities are set by an organizing committee with delegates from each of the local action teams. Proponents feel this type of structure develops leadership, allowing people to become involved on various levels, and in varying degrees.

Regardless of whether they are research or action based, consumer groups rarely enjoy final victories. Roy Alper, who has seen a lot of Sacramento bureaucratic maneuvering, comments, "These things are never over. Anytime we make a major forward step, industry groups are always there to begin eroding. Consumer groups should never delude themselves." In fact, this is what may happen when lifeline again goes before the Public Utilities Commission. (See *CJ*, March 1977)

It is also happening to the milk price victory that Co-Op won earlier this year. During the Sacramento trial suspension, milk prices went up in lock step on several occasions. According to Alper, that was due to "the Department of Food and Agriculture applying pressure to retailers who were selling milk below what they (the department) considered to be cost." Now, after the statewide suspension, the same thing is happening.

Using the price regulation formula in the Milk Marketing Act rather than the more permissive cost-plus-six-percent in the Business and Professions code, the contention is that the department is attempting to "jawbone" retailers into increasing prices. "Are the bureaucrats out of control?" asks Alper. "It's the ultimate hypocrisy to suspend controls and, behind the scenes, pressure retailers to keep the prices up." The Co-Op is resisting, and the whole issue may go to court once more. If it does, the milk issue may be settled, but the general difficulty of keeping consumer victories "won" will remain.


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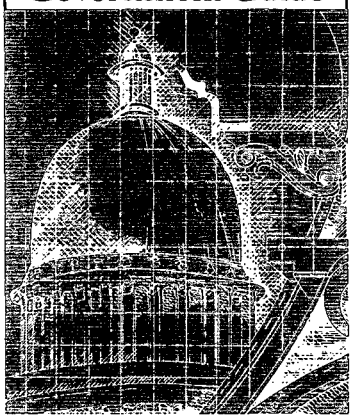

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# The city-hall shootout over funds for human-resource services

By Daniel M. Barber

The growth and development of human-resource, community-service functions in local government has reached impressive and, sometimes, fiscally frightening proportions. What started out as infant ideas and programs during the early 1960s have matured into bulky adolescents, squabbling over limited turf in terms of clients, budgets and favor with city managers and government councils.

Agencies concerned with recreation, manpower, police, libraries, housing, education, aging, youth, leisure services, anti-poverty, environmental action, courts, corrections and drug abuse are all claiming a major role in municipal community services. The "mission" of each agency helps to explain the competition for dollars. The following are examples of these "good causes:"

• **Housing** — Under the inspiration of the Housing and Community Development Act, tenant organizations, child care and other non-physical issues highlight the housing agenda. Federal housing programs have moved from mere construction of shelter to citizen participation in program areas such as rent subsidy, rehabilitation, land-use and community planning and other community development activities. Housing experts feel that the root cause of human misery, and thus the attacking point, is bad houses in bad neighborhoods.

• **Child development** — Advocates for healthy-child development point out that most of the poor in this country are children. The U.S. mortality rate for infants is higher than that of 15 other advanced nations in the world, and conditions for those who survive amidst poverty are not at all good. If the future is in the hands of our children, the child development lobby argues, we have a lot to worry about.

• **Area Agencies on Aging** — "Triple A's," as they often are called, make the case that older Americans offer "golden resources" that the community should reach out to and develop as stores of knowledge. Their lobbying groups are referred to as "gray power," indicating their influence as voters and money-getters.

• **Schools** — The posture of education is no longer strictly formal and classic. The school is now the center for not only education-related programs such as the reading and bilingual efforts, but also for programs benefitting the disabled, adult activities, recreational projects and neighborhood town meetings.

• **Recreation** — This, the oldest of the community-service agencies, has moved from the passive, roll-out-the-volleyball and pop-up-a-chair routine to a long and varied calendar of leisure activities from cooking and serving meals to counseling drug-abuse clients.

### Three solutions

With all of these agencies vying for city hall money, some have to take a back seat. An informal survey of city administrators indicates that there are three possible solutions to the problem. One is called service integration, a governmental reorganization combining all of the above mentioned functions into a new super agency. In Southern California, human resource departments are emerging as a new hope.

The second possible solution is a laissez-faire approach which lets the fight go on under the theory that rivalry and tension result in higher productivity. Often in these cases, an old-time department head with accrued political power will end up ruling the roost.

The third possibility has fiscal concerns at its heart and relies on the fee-for-service approach as a solution. As under the laissez-faire system, the city manager can let anything happen as long as it generates its own revenue. Family conciliation courts have found just such a solution, increasing marriage license and divorce filing fees as staff and program costs rise. Where fee-for-service can occur, local government can tolerate a possible duplication of services.

There is no minimizing of the conflict between public wants and public needs. A city cannot be all things to all people, particularly at this time of fiscal crisis. Whether the solution is consolidation or survival of the most financially adept, community service will undergo a change as the 1970s roll toward their end.

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*The author is an assistant professor in public administration at Long Beach State University.*



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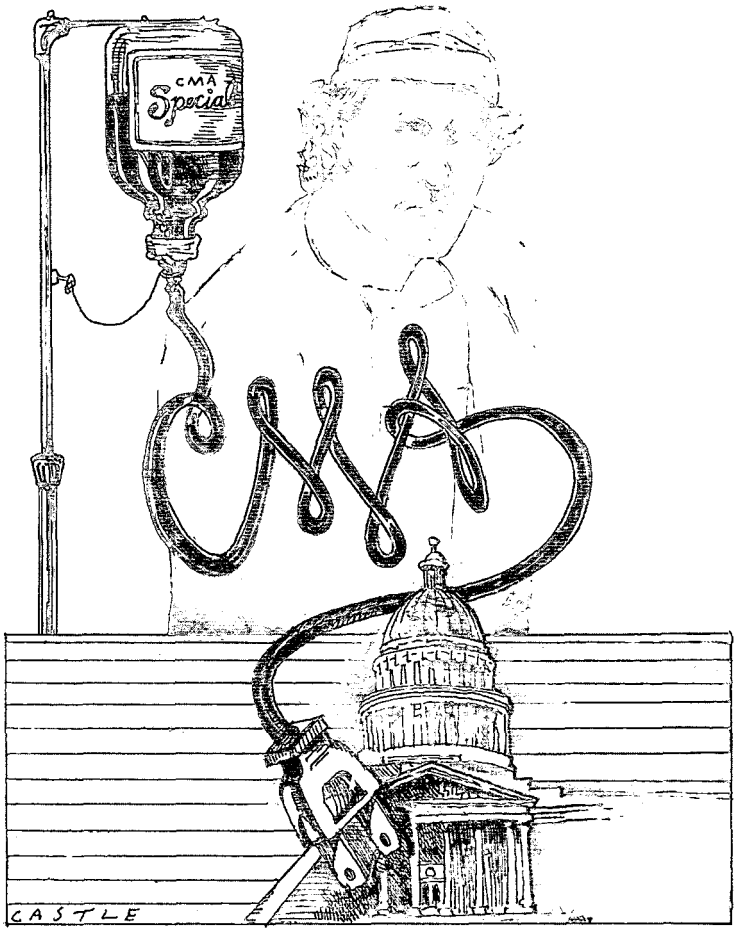
# Radical surgery on the doctors' lobby

By Jill Hockenson




California doctors now are up to their stethoscopes in state politics. Concerned in the past with only two statewide issues — licensing and socialized medicine — doctors considered politics a relatively low priority. But today, doctors have discovered that job and economic satisfaction require them to become far more involved in the political process.

The shift came during the malpractice insurance crisis in 1975. The limited number of companies carrying malpractice insurance decreased, while premiums and the number of lawsuits increased. Facing the choice of paying exorbitant premiums or practicing without insurance, doctors suddenly became intensely interested in their advocates and legislators — and a Sacramento solution to the insurance problem.

The California Medical Association (CMA), representing 25,000 of the state's 35,000 practicing physicians, has gone all-out to step up its already powerful and effective lobbying operation to deal with its proliferating problems — beginning with CMA membership. The high-risk specialists were hit the hardest by skyrocketing insurance premiums. Feeling that CMA neglected their interests, the specialists drifted away from the organization and began relying on their individual societies instead. In trying to prevent continued splintering, CMA's 300-member policy-making House of Delegates recently proposed an organizational change, allowing for direct representation of specialist groups. Currently, representation in the house and council (a second body responsible for establishing policy between house meetings) is based on membership in county medical societies, not on various specialties. If the proposal passes at the March 1978 meeting, specialty societies will be given limited representation in both bodies.

## Expanding lobbying

CMA is abandoning its former behind-the-scenes approach and is beginning to take the lead in broad policy proposals. The catastrophic-health-insurance bill of last session, reintroduced by Assemblyman Dixon Arnett this year, marked the start of CMA initiating legislation rather than reacting to it. The CMA House of Delegates in 1976 recommended the creation of the Citizens' Commission on Tort Reform to look into all aspects of professional liability, including malpractice, and to suggest legislative reform. Since established, the commission conducted extensive studies and soon will present its recommendations to the Legislature. If no action is taken, commission members indicate an initiative is a likely alternative.

CMA lobbying activities also have been expanded. In 1975, two CMA executive committee members left their practices and registered as full-time lobbyists. This year, there will be two on hand during the session's most intensive period. Advocates used to adhere to an unspoken policy of "keep the client in the dark and out of town." The new theme is teamwork between doctors throughout the state and their representatives in Sacramento.

In addition, CMA has put together a new lobbying team which, as former Assembly health committee consultant Ken Wagstaff says, "has the potential to become the most professional and effective lobbying organization in Sacramento." A shuffling of personnel last year ended with four empty slots for CMA to fill. Jay Michael, who represented the University of California for many years, was hired to assume directorship of the advocacy program. Michael then retained three assistants, two with experience in the Legislature. The key newcomer is Bill Barnaby, an attorney who brings CMA an insider's view and excellent contacts as the former consultant to the Senate health and welfare committee. Barnaby's credibility is said to be "unimpeachable" and he knows what it is like to be lobbied. George Cate, formerly with the Legislative Analyst's office, is the CMA's new budget expert, and Hannah Jorgenson provides a fresh approach as a recent law-school graduate with no previous experience in state government.

To keynote the new CMA team-work effort between lobbyists and client, Michael arranged a Carmel retreat before the 1977 legislative session. He asked the council for policy direction on over 200 health-related issues. The procedure in the past was "wait-and-see, then react." To get a CMA position or an answer to a question, legislators would have to wait for advocates to check with officers in San Francisco. Now CMA advocates are ready and waiting with their answers. The pre-made policy positions will help Michael reverse the impression of hysteria created during the 1975 crisis.

Not all doctors were content to stick around while CMA tried to cope with the chaotic malpractice situation. There were those who grew impatient with the organization's inability to find solutions and decided to do something about it

*The author prepared this article as a* Journal *intern from Chico State University.*



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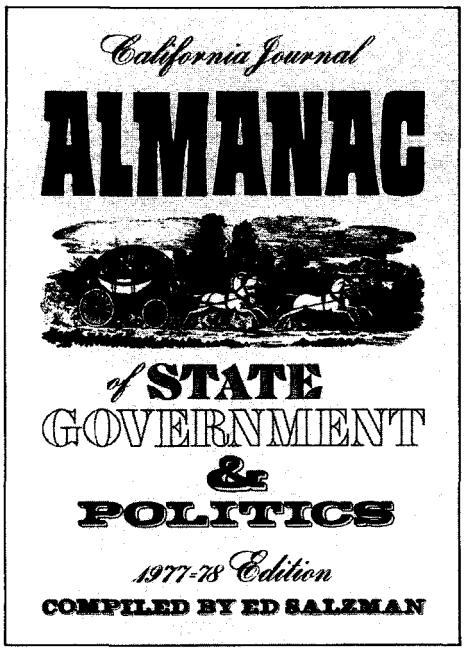


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themselves. Two groups of physicians from different parts of the state created more radical alternatives to CMA. The United Physicians of California (UPC) was a single-issue organization — immediate insurance relief. UPC wanted results before the next premium payments were due and organized slow-downs and strikes to press the point. It lobbied for a voluntary insurance plan. It failed and UPC discontinued its activity. The second, somewhat less radical offshoot — Union of American Physicians and Dentists — operates out of San Francisco, sending a representative to Sacramento when necessary. The Union, tired of CMA's traditional methods, also lobbied for immediate relief and threatened walkouts, but didn't fold when it reached a dead end. Instead, it has continued its activities and shows slow, but steady growth.

### Independence for specialties

High-risk specialty doctors, since their initial independence from CMA, have beefed up their lobbying programs. In the last year, specialty groups have engaged four experienced former-CMA advocates to work for them: The anesthesiologists have former CMA lobbyist chief Paul Brown, a medical advocate going back to the days when the physicians' lobby was called the Public Health League; Mike Mahoney is now the number-one man for the California Dental Society; the emergency-room physicians signed CMA Medi-Cal expert Jim Randlett, and Mike Allen is representing the pathologists, radiologists, ophthalmologists and podiatrists.

Even the individual physician has entered the arena. Some doctors are no longer willing to trust their political fate to an organization of any kind. Chairman Barry Keene of the Assembly Health Committee reports that increasing numbers of doctors come to his office representing only themselves. Keene says many come to see what can be done about the difference between the legislators' view of physicians and the physicians' view of themselves. And even doctors who have always left the politicking to advocates now are studying the politically oriented medical publications.

According to accepted legislative folklore, CMA at one time virtually picked health committee chairmen and controlled the majority of votes on the committees. That is definitely not the case now. Medical groups today deal with legislators who have independent sources of information. Some health committee members have become experts in medical problems.

Malpractice-insurance reform is still around and, although no longer hysterical, doctors are just as adamant and divided on what they want — making a lasting solution difficult. CMA maintains that the way to approach malpractice problems is to get rid of the incompetents, but the group can't settle on what constitutes negligence.

Last session's attempt to relax limitations on physician-price advertising is expected back and CMA is out to stop it. Proponents believe advertising will drive costs down through competition and consumers will become aware of alternatives in treatment and cost. Doctors say that since the purpose of advertising is to create a need, it will breed a society of hypochondriacs. CMA claims: "Advertising represents a form of conduct unbecoming to the profession."

Clearly the chemistry of health politics before the Legislature is changing. The lobbying tactics of doctor organizations are becoming more progressive, and yet more of the militant physicians are getting involved in the process as individuals. Legislators are exercising unprecedented independence on health issues. This combination lends itself to stalemate. In the final analysis, the doctors hold the ultimate weapon — withholding of their vital services from the public.


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# McComb verdict: disability retirement (senile dementia)

The unprecedented saga of the forced retirement of former state Supreme Court Justice Marshall F. McComb is finally at an end. Gregory Stout, attorney for the 83-year-old justice, announced that McComb will not appeal the retirement ordered by a special tribunal of seven justices from the state Court of Appeal.

On January 7th, the state Commission on Judicial Performance recommended that McComb be retired or removed from office "for willful and persistent failure to perform his duties." The commission presented the tribunal with a 32-page list of charges questioning McComb's physical and mental capacity to perform his job.

On May 2nd, the tribunal issued its order: "Having undertaken an independent evaluation of the evidence, we concur in the commission's finding that Justice McComb is suffering from a disability (chronic brain syndrome, senile dementia) that seriously interferes with the performance of his judicial duties and that the disability is, or is likely to become, permanent. We conclude also that the commission's findings of willful and persistent failure to perform judicial duties are not supported by the record and that no cause for discipline exists through conduct prejudicial to the administration of justice which brings the judicial office into disrepute."

The forced retirement ends a judicial career of 50 years for the conservative McComb, who was first appointed to the Los Angeles Superior Court in 1927. He moved to the Court of Appeal in 1937 and was named to the high court by Governor Goodwin J. Knight in 1956. By ruling that he retired voluntarily, the tribunal preserved a pension of $31,467 a year for McComb, half the salary of an associate justice.

The leading candidate to succeed McComb is Appellate Justice Cruz Reynoso of Sacramento, who would become the first Chicano ever to sit on the Supreme Court. Governor Brown this year has already placed the first woman and the first Black on the court, Chief Justice Rose Elizabeth Bird and Associate Justice Wiley Manuel.

## The 'profiteer' doctrine

California's basic prostitution law had been placed in jeopardy by an Alameda County Superior Judge, Spurgeon Avakian, who found that the law was unconstitutional as applied by the Oakland police department. Avakian found it unconstitutional because it bans "soliciting" and because police place emphasis on prosecution of prostitutes rather than customers. His decision in *People* v. *Superior Court (Hartway)* was appealed to the Supreme Court.

In a 4-2 decision, the Supreme Court ruled that the law is valid and women can be prosecuted for soliciting acts of prostitution. The majority opinion was written by Justice William P. Clark, joined by Justices Stanley Mosk, Frank Richardson and Raymond Sullivan. A dissenting opinion was written by Justice Mathew Tobriner, joined by retired Chief Justice Donald Wright. (Sullivan and Wright were sitting on assignment.)

Avakian's discriminatory enforcement claim was based primarily on the Oakland practice of employing more men than women as "decoys" for solicitation of acts of prostitution. As a result, more women than men were arrested. Clark wrote: "The critical question is whether the department adopted this practice . . . with intent to discriminate against women . . . . The practice is a consequence of the department's sexually unbiased policy of concentrating its enforcement effort on the 'profiteer,' rather than the customer, of commercial vice."

In dissent, Tobriner emphasized that the Oakland practice "constitutes invidious sex-based discrimination" in violation of the equal-protection guarantees of the federal and state constitutions.

## A lawyer's right to talk

In 1972, Leonard Jacoby and Stephen Meyers opened a Van Nuys legal clinic to provide low-cost legal services for the middle class by using paralegal assistants, part-time specialists and flat rates. They were interviewed by news reporters interested in the plan, and they promoted the opening of their clinic by distributing press kits. The State Bar launched proceedings against them and eventually recommended that they be suspended from the practice of law for 45 days for violation of professional-conduct rules against advertising.

In a 5-1 decision, the state Supreme Court ruled in *Jacoby* v. *State Bar* that a lawyer may not be prohibited from participating in the preparation of a news article about himself if the primary purpose is something other than solicitation of clients. Richardson dissented from the majority opinion, which was written by Mosk, joined by Wright, Tobriner, Clark and Sullivan.

Wrote Mosk: "The First Amendment protects the freedom of expression of all citizens, including lawyers. Petitioners have a right not only to respond to questions from the media on important issues, but also a right to seek out the media to express their views. Insofar as the present proceedings effectively inhibit petitioners from speaking their mind on an important issue — the delivery of inexpensive legal services to middle-income persons — they infringe on important First Amendment rights. In this sensitive area we should be aware of confusing innovation with impropriety."



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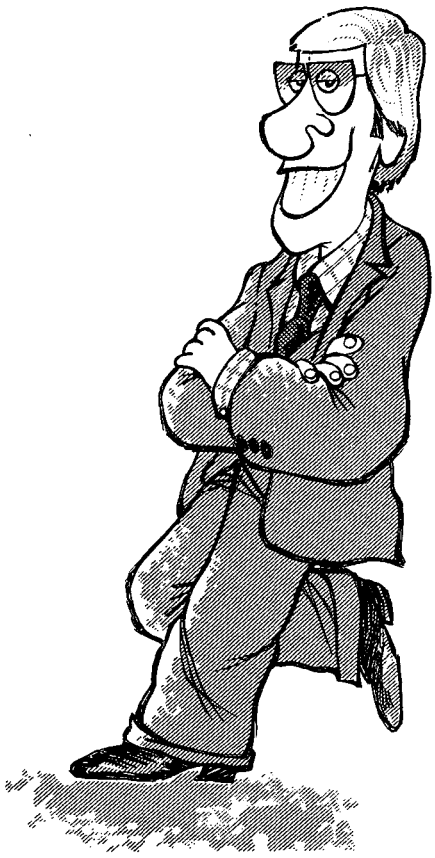
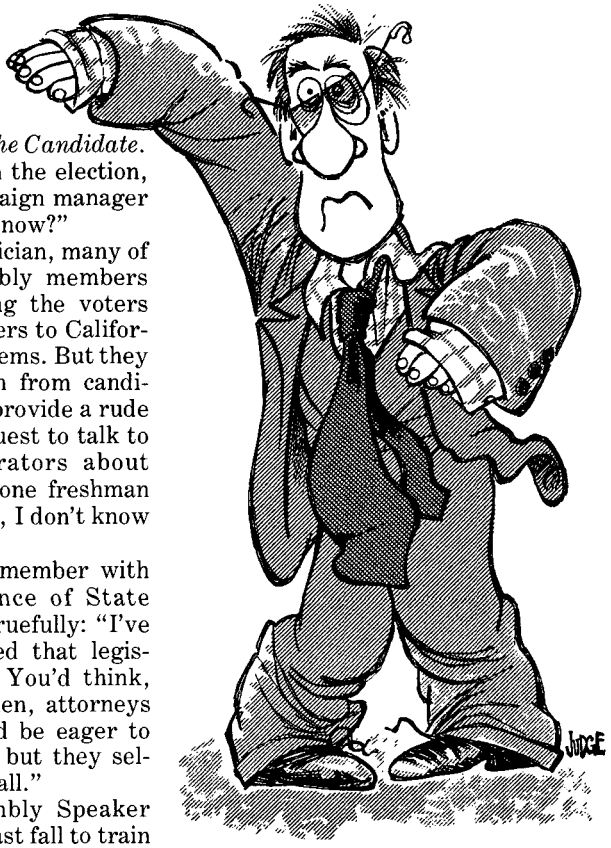
# The Assembly's attempt to train the untrainable






*By* IAN CAMPBELL

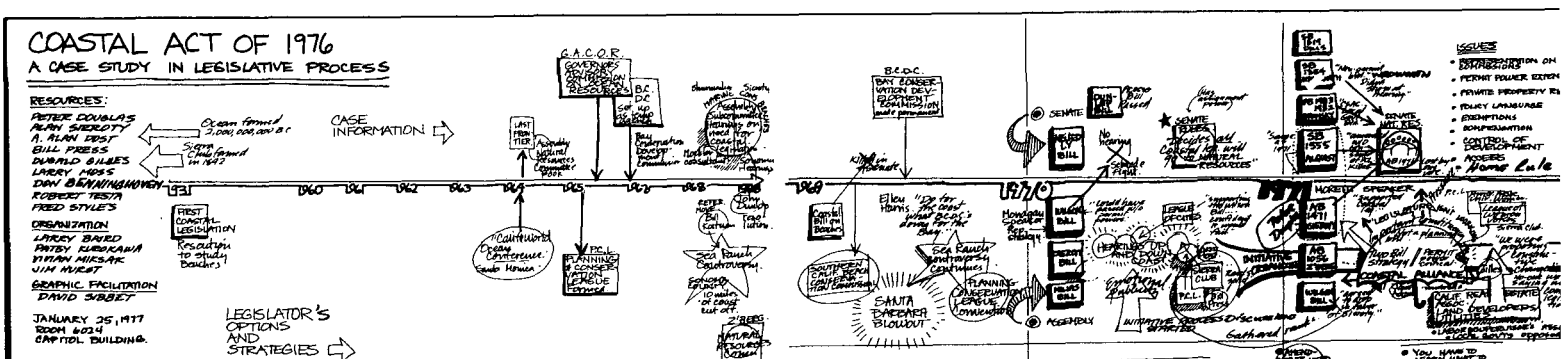
It's the final scene in *The Candidate*. Robert Redford has won the election, and he turns to his campaign manager and asks, "What do I do now?"

Like the Redford politician, many of this year's new Assembly members spent months persuading the voters that they have the answers to California's most pressing problems. But they find that the conversion from candidate to officeholder can provide a rude awakening. "I got a request to talk to some school administrators about school-finance reform," one freshman told his colleagues. "Hell, I don't know anything about it."

Rolly Harris, a staff member with the National Conference of State Legislatures, observed ruefully: "I've almost become convinced that legislators are untrainable. You'd think, coming in as car salesmen, attorneys and businessmen, they'd be eager to learn how things work, but they seldom seem interested at all."

Nevertheless, Assembly Speaker Leo McCarthy decided last fall to train

## THE 'DANCE OF LEGISLATION,' CLOSE RELATIVE C



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the untrainable. He directed the Assembly Office of Research (AOR) to develop an orientation program which would equip the newcomers to service their districts, cope with daily life in the Capitol and understand some of the main issues before the 1977-78 Legislature.

Previous freshman classes have been treated to lectures from state agency heads — a numbing experience. "The members figured out these people were just selling the virtues of their agencies. So they stopped coming to sessions," reported Jim Hurst, director of AOR. Members were given a "kiss and a hug," Hurst said, and sent out to learn their job through the school of hard knocks.

### Double-teamed program

The Office of Research contracted with the Coro Foundation, a non-profit foundation which conducts a variety of public-affairs training programs, to provide the freshman class with a program that was drastically different. This time, the "dance of legislation" was performed by experienced lawmakers, lobbyists, agency heads and members of the legislative staff. According to Coro's David Abel, a review of other programs around the country "convinced us that we should avoid the 'I-have-the-answers-to-your-problems' syndrome that is common in most campaigns — and in most traditional, academic orientation programs. When Senator Hayakawa fell asleep at the orientation program Harvard runs for Congress, most people thought it was the senator's problem. AOR and Coro thought it was Harvard's problem."

In six sessions beginning in January and ending in March, members of the class of '77 heard their sophomore colleagues talk about their own problems and mistakes as newcomers. Staffers explained the intricacies of enacting bills, and there were descriptions of the politics involved in such issues as property-tax reform, school finance, coastal-zone protection and the overall health of the California economy.

The students were told that the average Assembly member authors 40 to 50 bills a session and that many of these are carried at the request of a special-interest group, a governmental agency or a constituent. The new lawmakers specifically were warned not to assume that the support of a department head guaranteed the signature of the Governor on a bill passed by the Legislature.

If there was one major problem facing the staffers conducting the seminars, it was maintaining high attendance. The new members found that their time was in great demand. But that problem was solved by Speaker McCarthy. Reported Hurst: "He let the members know he expected their attendance. It was clearly McCarthy's thing."

Questions from the neophytes were direct: "Where do I go for information?" "How do I test its reliability?" "What strategies work best?" "What tactics are available at each stage of the parliamentary process?" Even McCarthy's former top aide, freshman Art Agnos of San Francisco, observed, "It's just so confusing on the floor, with all those publications flying at you." Added Maxine Waters of Los Angeles: "You have to develop an attitude of listening while everything drones on with this very unruly, noisy body."

### Pitfalls and pratfalls

The students learned the importance of keeping track of potential votes, hearing about the narrow defeat of coastal legislation in 1971 when one member "disappeared" en route from Los Angeles to Sacramento. Legislative Analyst A. Alan Post reminded the new lawmakers that the cost of each bill is "an acid test you have to meet at some point."

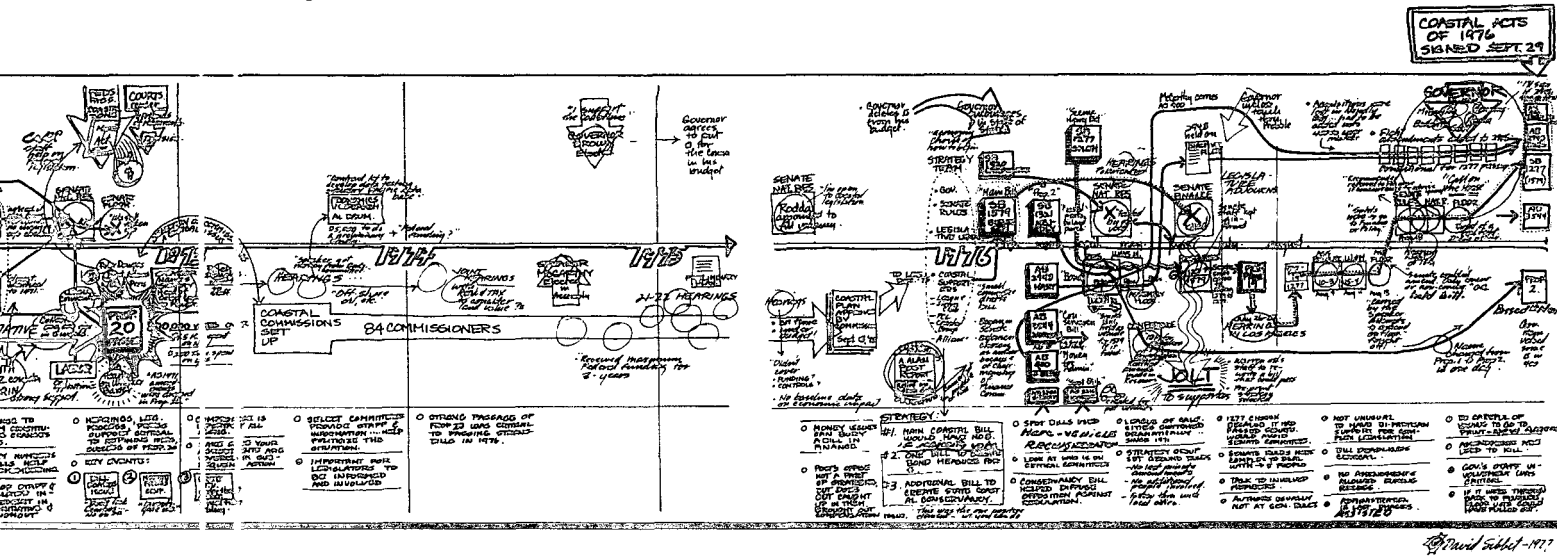
The class of '77 worried about committee conduct. "On roll call in committee," said one frustrated newcomer, "I'm always the first one to vote. How do I avoid that?" "Well," joked a staffer, "become chairman. Then you can vote last." On a more serious note, Legislative Counsel Bion Gregory suggested, "Ask your committee chairman for advice. It'll make him happy and he'll give you a straight shot."

During all the discussions, Coro's David Sibbett was papering the walls with graphic illustrations of the "dance of legislation." By the time a session on the history of coastal legislation was complete, the room was ringed with a tangled illustrated history of the issue. (See illustration.)

As the complexity of the process unfolded, it was Maxine Waters who expressed the sentiments of the class. "This body" she said in mock frustration, "is just too democratic."

*The author is a free-lance writer in Los Angeles.*

## THE 'HUSTLE,' THE 'BUMP' AND THE 'FUNKY CHICKEN'



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# Sacramento's river of green

This is money month in the state Legislature. Within the next few weeks, lawmakers will pass a massive budget and make far-reaching decisions on the funding of the public-school system and property-tax relief for many Californians. The budget itself has been relatively non-controversial because it has been dwarfed by the debates over the other two issues.

As the Legislature approached decision time, it was informed that there would be a huge surplus in the state treasury at the end of this fiscal year — perhaps as much as $2 billion. This has been the result of an unanticipated windfall from income-tax collections produced by inflation and the progressive nature of the income-tax system. So there would be plenty of cash available to provide tax relief and funds for schools without the necessity of increasing anyone's taxes.

There were three major bills in the tax field. Senator Jerry Smith was pushing a $700 million relief package supported by Governor Brown. Assemblyman Willie Brown was working a similar program through the Assembly. And Senator Nicholas C. Petris was attempting to win approval for a more ambitious scheme that coupled relief with higher income taxes for wealthier Californians. The Petris bill was opposed by the Governor.

Two rival school bills, both designed to meet the state Supreme Court's *Serrano* requirements, were headed for confrontation. Neither bill would meet all the demands of *Serrano*, but there was the hope that the court would accept "substantial compliance" as a sufficient response to the decision. AB 65 by Assemblyman Leroy Greene would cost the state about $3 billion in additional schools funds over five years, and SB 525 by Senator Albert Rodda would be $1 billion cheaper. Greene's bill would contain large sums of money for special programs, Rodda's none. Rodda would reduce expenditure differences for each child rapidly, while Greene's formula would concentrate on eliminating tax-rate inequalities. Overall, Greene's bill would be better for the tax-rate structure of low-wealth districts and better in expenditure-per-child impact for high-wealth districts. Rodda's bill would be the reverse. These plans are expected to be put into the hands of a conference committee, and an entirely new program could emerge.

Before getting down to the nitty-gritty on fiscal issues, the Legislature sent Governor Brown a bill by Senator George Deukmejian restoring the death penalty in the state. Brown vetoed the measure as promised. Also facing a possible Brown veto: a Senate bill raising the Governor's salary by $16,000 a year.

| **Senate (26D, 14R)** | SB 166 | SB 326 | SB 188 | SB 358 | SB 220 | SB 295 | SCA 23 | SB 234 |
|---|---|---|---|---|---|---|---|---|
| Alquist (D) | Y | * | Y | N | Y | Y | Y | N |
| Ayala (D) | N | Y | N | Y | N | Y | Y | N |
| Behr (R) | N | N | N | * | Y | N | * | * |
| Beverly (R) | Y | Y | Y | Y | * | Y | Y | N |
| Briggs (R) | Y | Y | Y | N | N | * | * | Y |
| Campbell (R) | Y | * | Y | Y | * | Y | Y | Y |
| Carpenter, D. (R) | Y | N | Y | * | N | Y | * | * |
| Carpenter, P. (D) | N | Y | Y | Y | * | Y | Y | Y |
| Cusanovich (R) | Y | Y | Y | Y | N | Y | Y | Y |
| Deukmejian (R) | Y | Y | Y | N | N | Y | Y | Y |
| Dills (D) | Y | Y | Y | N | N | Y | Y | Y |
| Dunlap (D) | N | Y | N | Y | Y | N | Y | N |
| Foran (D) | N | Y | N | Y | Y | N | Y | N |
| Garamendi (D) | N | Y | N | * | N | * | Y | N |
| Garcia (D) | N | * | Y | * | Y | Y | Y | * |
| Greene (D) | * | Y | N | Y | Y | Y | * | Y |
| Gregorio (D) | Y | Y | Y | Y | Y | N | N | N |
| Holden (D) | * | * | N | Y | Y | N | * | Y |
| Holmdahl (D) | N | Y | Y | Y | N | Y | Y | Y |
| Johnson (R) | Y | Y | Y | N | N | Y | Y | * |
| Marks (R) | N | Y | Y | Y | Y | N | Y | N |
| Mills (D) | N | Y | N | Y | Y | N | Y | N |
| Nejedly (R) | Y | Y | Y | Y | N | Y | Y | Y |
| Nimmo (R) | Y | Y | Y | N | N | Y | Y | Y |
| Petris (D) | * | Y | N | Y | Y | N | * | N |
| Presley (D) | Y | Y | N | Y | N | Y | Y | Y |
| Rains (D) | N | N | N | Y | Y | Y | Y | Y |
| Richardson (R) | Y | N | Y | N | N | Y | * | Y |
| Robbins (D) | Y | Y | Y | Y | Y | Y | Y | Y |
| Roberti (D) | N | Y | N | Y | Y | Y | Y | Y |
| Rodda (D) | Y | Y | Y | Y | Y | N | N | N |
| Russell (R) | Y | Y | Y | N | N | Y | N | Y |
| Sieroty (D) | N | Y | N | N | Y | N | * | N |
| Smith (D) | N | N | N | Y | Y | N | Y | N |
| Song (D) | N | Y | Y | Y | Y | N | Y | Y |
| Stiern (D) | Y | Y | Y | Y | N | Y | Y | Y |
| Stull (R) | Y | N | Y | N | N | Y | Y | Y |
| Vuich (D) | Y | Y | Y | Y | N | N | Y | Y |
| Wilson (D) | N | Y | Y | N | Y | Y | * | Y |
| Zenovich (D) | Y | * | Y | N | Y | Y | * | N |

## VOTING RECORDS

Listed here are the votes of legislators on recent major roll calls through mid-May. Votes selected involve issues of major importance and issues on which there was a major division of opinion, or both.

**Y - Yes**
**N - No**
*** — Absent or not voting**

A ⅔ vote is required for urgency measures, constitutional amendments, and appropriations.

**Assembly:** 41 votes required for passage of bills needing a simple majority. (⅔ = 54 votes)

**Senate:** 21 votes required for passage of bills needing a simple majority. (⅔ = 27 votes)

## Senate

### EDUCATION

**SB 166** (Johnson) — Allows small schools without cafeterias to be exempted from the school-lunch program. Passed 21-16.

**SB 326** (Stiern) — Prohibits construction of community-college facilities without state budget authorization. Passed 29-6.

### ENVIRONMENT

**SB 188** (Holmdahl) — Permits sale of vehicles in California that meet federal smog standards instead of the more stringent state standards. Urgency clause defeated, 26-14 (27 votes required).

**SB 358** (Nejedly) — Allows the Governor to declare a state of emergency during a drought. Urgency clause defeated, 24-12.

### JUSTICE

**SB 220** (Marks) — Makes capital crimes punishable by life imprisonment without possibility of parole. Failed 20-17.

**SB 295** (Dennis Carpenter) — Prohibits sentence bargaining in felony cases. Passed 25-13.

**SCA 23** (Holmdahl) — Proposed constitutional amendment requiring Senate confirmation of gubernatorial appointments



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to the Supreme Court, courts of appeal and superior courts. Adopted 27-3.

MISCELLANEOUS

**SB 234** (Holmdahl) — Removes authority of the Bay Area Metropolitan Transportation Agency to set bridge tolls and allocate the proceeds for mass transit. Urgency clause defeated, 22-14.

## Assembly

EDUCATION

**AB 40** (McAlister) — Allows school districts to buy textbooks which fail to meet state standards on racial, ethnic or sex stereotyping until 1979. Failed, 29-31 (41 votes required).

**AB 65** (Greene) — Allocates funds and revises school-finance system in response to *Serrano* court decision. Passed 55-21.

**AB 569** (McAlister) — Allows students to be absent from school up to 20 hours a month for religious instruction. Passed 45-27.

JUSTICE

**SB 155** (Deukmejian) — Restores death penalty for specific crimes. Passed 54-23.

**AB 327** (Mori) — Permits a wife to charge husband with rape if one of them has filed for divorce, separation or annulment. Returned to committee for amendment, 48-21.

**AB 476** (Boatwright) — Revises new Uniform Determinate Sentencing Act to increase penalties for certain felonies. Passed 65-6.

**AB 607** (Nestande) — Bans granting of marriage licenses to pairs of homosexuals. Passed 49-16.

MISCELLANEOUS

**AB 453** (Antonovich) — Prohibits Fair Political Practices Commission from granting contribution-disclosure exemptions to candidates or committees because of potential harrassment or economic reprisal. Passed 58-15.

**AB 649** (Sieroty) — Allows persons to conduct voter registration activities and gather signatures for proposed ballot measures at shopping centers and public malls. Passed 49-25.

**AB 392** (Rosenthal) — Makes a physician's failure to quote fees for services grounds for unprofessional-conduct proceedings. Failed, 28-41.

**AB 402** (Ingalls) — Creates new California Transportation Commission to replace the Transportation Board and the Highway Commission; eliminates north-south division of highway funds in favor of a priority system; increases motor vehicle fees to produce $261 million over the next three years. Passed 42-29.

**SB 49** (Nejedly) — Extends authorization to import green sea turtles for two and a half years. Passed 58-15.

| Assembly (55D, 23R) | AB 40 | AB 65 | AB 569 | SB 155 | AB 327 | AB 476 | AB 607 | AB 453 | AB 649 | AB 392 | AB 402 | SB 49 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Agnos (D) | NY*N | Y*NN | YYYN | | | | | | | | | |
| Alatorre (D) | NY*N | Y*N* | YYNY | | | | | | | | | |
| Antonovich (R) | YNYY | YNYY | NNNN | | | | | | | | | |
| Arnett (R) | YYYY | YY*Y | N*NY | | | | | | | | | |
| Bane (D) | YYNY | YYYY | YNNN | | | | | | | | | |
| Bannai (R) | YNYY | NYYY | NNNY | | | | | | | | | |
| Bates (D) | NYNN | NNNN | YYYN | | | | | | | | | |
| Berman (D) | NYNN | YYNN | YYYY | | | | | | | | | |
| Boatwright (D) | YYYY | NYYY | YNYY | | | | | | | | | |
| Brown (D) | *Y*N | Y*NN | YY*Y | | | | | | | | | |
| Calvo (D) | NYYN | NY*Y | YYYY | | | | | | | | | |
| Chacon (D) | NYYY | YYYY | Y*YY | | | | | | | | | |
| Chappie (R) | YNYY | YYYY | NNNY | | | | | | | | | |
| Chel (D) | YNYY | YYYY | YNNY | | | | | | | | | |
| Chimbole (D) | YYYY | NYYY | NNNY | | | | | | | | | |
| Cline (R) | **YY | YYYY | *NN* | | | | | | | | | |
| Collier (R) | **YY | YY*Y | NNY* | | | | | | | | | |
| Cordova (D) | NNNY | YYYY | YNNY | | | | | | | | | |
| Craven (R) | YYYY | *YYY | NN*Y | | | | | | | | | |
| Cullen (D) | YNNY | YYYY | YYYY | | | | | | | | | |
| Dannemeyer (R) | YNYY | NNYY | YNNY | | | | | | | | | |
| Deddeh (D) | YYYN | NYYY | YNYY | | | | | | | | | |
| Dixon (D) | *YNN | YYNY | *NY* | | | | | | | | | |
| Duffy (R) | YNYY | YYYY | NYNN | | | | | | | | | |
| Egeland (D) | NYNY | YY*Y | YYYY | | | | | | | | | |
| Ellis (R) | YNYY | NYYY | NNYY | | | | | | | | | |
| Fazio (D) | NYYN | NYNY | Y*YN | | | | | | | | | |
| Fenton (D) | NY*Y | YYYN | YYNY | | | | | | | | | |
| Gage (D) | NYNN | YY*N | YYYY | | | | | | | | | |
| Goggin (D) | NYNY | YYNN | YY*Y | | | | | | | | | |
| Greene (D) | YYNY | YY*Y | Y*YY | | | | | | | | | |
| Gualco (D) | NYYY | YYYY | YYYY | | | | | | | | | |
| Hallett (R) | YYYY | YYYY | NNNN | | | | | | | | | |
| Hart (D) | *YYN | *Y*N | YYYY | | | | | | | | | |
| Hayden (R) | YNYY | NYYY | NYNN | | | | | | | | | |
| Hughes (D) | NYNN | YYY* | YY*Y | | | | | | | | | |
| Imbrecht (R) | YYYY | YYYY | YNYY | | | | | | | | | |
| Ingalls (D) | YYNY | YYYY | NNYY | | | | | | | | | |
| Kapiloff (D) | NYNN | YYNN | Y*YN | | | | | | | | | |
| Keene (D) | *YNN | ***Y | YYN* | | | | | | | | | |
| Keysor (D) | *YYN | NY*N | Y*YY | | | | | | | | | |
| Knox (D) | NYN* | YY*N | YYYY | | | | | | | | | |
| Lancaster (R) | YYYY | YYYY | NNNY | | | | | | | | | |
| Lanterman (R) | YYYY | YYYY | NNYY | | | | | | | | | |
| Lehman (D) | NYNY | YYYY | YYNY | | | | | | | | | |
| Lewis (R) | YNYY | YYYY | NNNY | | | | | | | | | |
| Lockyer (D) | NYNY | NY*N | YYYN | | | | | | | | | |
| Maddy (R) | YN*Y | YYY* | NNNY | | | | | | | | | |
| Mangers (D) | NYNY | NY*Y | NNYY | | | | | | | | | |
| McAlister (D) | YYYY | NYYY | YNYY | | | | | | | | | |
| McCarthy (D) | *YNN | NY*N | YYYY | | | | | | | | | |
| McVittie (D) | YYYY | YYYY | YNYN | | | | | | | | | |
| Mello (D) | NYYY | NYYY | YNNN | | | | | | | | | |
| Miller (D) | NYNN | YYNY | *YYY | | | | | | | | | |
| Montoya (D) | YN*Y | *YY* | YN*Y | | | | | | | | | |
| Mori (D) | NYYY | NYYY | NNYY | | | | | | | | | |
| Nestande (R) | YNYY | *YYY | YYNN | | | | | | | | | |
| Papan (D) | YYYN | NYYY | YNY*. | | | | | | | | | |
| Perino (D) | YYYY | YYYY | NNYY | | | | | | | | | |
| Priolo (R) | YYYY | YYYY | YNYN | | | | | | | | | |
| Robinson (D) | YYYY | YYY* | YNYY | | | | | | | | | |
| Rosenthal (D) | NYNN | Y*NN | YYYY | | | | | | | | | |
| Ryan (R) | NNYY | NYYY | YNYY | | | | | | | | | |
| Statham (R) | YNYY | YYYY | NNNY | | | | | | | | | |
| Stirling (R) | YNYY | YNYY | NNNY | | | | | | | | | |
| Suitt (D) | YNYY | YYYY | NNYY | | | | | | | | | |
| Thomas, V. (D) | YYYY | NYYY | *N*Y | | | | | | | | | |
| Thomas, W. (R) | YNYY | YYYY | NNNY | | | | | | | | | |
| Thurman (D) | YYYY | YYYY | Y*NY | | | | | | | | | |
| Torres (D) | NYNN | YNNY | YYNY | | | | | | | | | |
| Tucker (D) | NYNY | *YNY | N*YY | | | | | | | | | |
| Vasconcellos (D) | NYNN | *NNN | YYYY | | | | | | | | | |
| Vicencia (D) | NYNN | **YY | Y**Y | | | | | | | | | |
| Waters, M. (D) | NYNN | Y*NY | YYNN | | | | | | | | | |
| Waters, N. (D) | YNYY | NYYY | YNNY | | | | | | | | | |
| Wornum (D) | YNNY | YYNY | YNYY | | | | | | | | | |
| Wray (D) | NYYY | YYYY | YYYY | | | | | | | | | |
| Young (D) | NYYY | *YYY | NNNY | | | | | | | | | |

## Selected government reports

**The People's Guide to Campaign Politics;** by Gary Robert Schwedes, published by People's Lobby Press. A guide for the neophyte political campaigner, with a foreword by the late Edwin A. Koupal. 102 pp. Available from the publisher, 3456 W. Olympic Blvd., Los Angeles 90019.

**California Legislative and Congressional Districts for 1974-1980: Official Maps, Descriptions and Statistics;** by the Center for California Public Affairs, an affiliate of the Claremont Colleges. 102 pp. Available from the Center, P.O. Box 30, Claremont, CA 91711. ($13.25 plus tax)

***The Book of the States;*** 1976-77 edition, by The Council of State Governments. A reference book containing a comprehensive survey of state governments, legislative trends, taxation, services, energy, labor, housing, etc., 650 pp. Available from the Council, P.O. Box 11910, Iron Works Pike, Lexington, KY 40511. ($19.50 hardbound)

**Medical Malpractice: The Response of Physicians to Premium Increases in California;** by Albert J. Lipson, prepared for the California Post-Secondary Education Commission. 172 pp. Available from The Rand Corporation, 1700 Main St., Santa Monica 90406.

**Southern California Law Review, Vol 49, Number 4;** published by The Law Center, University of Southern California. Includes five articles on the California Coastal Plan. 987 pp. Available from the Center, University Park, Los Angeles 90007. ($5.50)



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# NEWSMAKERS

## First candidate and second dropout

Briggs

Clawson

State Senator **John V. Briggs** of Orange County became the first Republican to issue a formal announcement of candidacy for governor next year. A conservative, Briggs is supported by former Lieutenant Governor **Ed Reinecke** and state Senator **Bill Campbell** . . . . Republican Congressman **Del Clawson** of Downey announced that he will not seek reelection in 1978. Previously, GOP Representative **Charles Wiggins** of Fullerton had revealed that this would be his last term.

Attorney General **Evelle J. Younger** issued a 119-page report on the defunct Urban Affairs Institute formed by Lieutenant Governor **Mervyn Dymally** 10 years ago. The report indicates that Dymally donated $1,350 to charity as a result of Younger's investigation into the activities of the organization, created to bring minority youth into government. Younger also indicated that civil suits will be brought against two institute officials, executive director **Chester Wright** and treasurer **Richard Morris.**

**Donald R. McNeil** resigned as director of the state Postsecondary Education Commission after serving only a little more than two years in the position. McNeil apparently had not been in favor with some members of the commission, and he indicated upon resigning that "it is difficult to please everyone at the same time." . . .Superior Judge **Lionel J. Wilson** became Oakland's first black mayor, defeating school-board president **Dave Tucker** by 6,000 votes out of almost 80,000 cast.

Retiring Legislative Analyst **A. Alan Post** will join the public-administration faculty of the University of Southern California next year . . . . **Garvin F. Shallenberger** of Orange County was elected 49th president of the State Bar . . . Supervisor **Robert H. Mendelsohn** of San Francisco was nominated by President Carter to be a $50,000-a-year Assistant Secretary of the Interior.

Governor Brown named San Diego businessman **Richard T. Silberman** secretary of the state Business and Transportation Agency, succeeding interim secretary **Alan Rothenberg.** The Governor then appointed Rothenberg, a Bank of America vice president, to the Commission on Government Organization and Economy (Little Hoover Commission). Other Brown appointments: **Herbert A. Perry** of Sacramento, to the Agricultural Labor Relations Board; attorney-conservationist **David E. Pesonen** of Berkeley, to the state Board of Forestry; retired Chief Justice **Donald Wright** of the state Supreme Court, to head the Governor's Commission to Review California Water Rights Law; Superior Judge **John T. Racanelli** of Los Altos, as presiding justice of the San Francisco Court of Appeal.

## Californians in the Carter Administration

The following are some of the California names sprinkled through the upper echelons of the Carter Administration:

**White House** — Joseph Aragon, special assistant and troubleshooter for the President, a former Los Angeles lawyer. Annie Gutierrez, associate director of the Domestic Council; she was formerly executive secretary of the California Agricultural Labor Relations Board.

**Pentagon** — Defense Secretary Harold Brown, former president of the California Institute of Technology in Pasadena.

**Agriculture** — Robert Meyer, a Brawley rancher, assistant secretary for marketing.

**Health, Education and Welfare** — Undersecretary Hale Champion, who traces his California roots to stints as a reporter on the *Sacramento Bee* and the *San Francisco Chronicle* and as a top aide to former Governer Edmund G. (Pat) Brown; Arabella Martinez, an Oakland social services consultant and community organizer, assistant secretary for human development; Robert Derzon, head of the new health-care finance branch which encompasses medicare and medicaid, formerly director of hospitals and clinics at the University of California in San Francisco.

**Housing and Urban Development** — Chester McGuire, assistant secretary for fair housing and equal opportunities. He formerly served as assistant professor of city and regional planning at UC Berkeley.

**Justice** — Barbara Allen Babcock, a former associate professor of law at Stanford, assistant attorney general in charge of the civil division.

**State** — Warren Christopher in the number two job of deputy secretary. He was senior partner in the Los Angeles law firm of O'Melveny & Meyers; also served as deputy attorney general during the Johnson Administration and as special counsel to former Governor Brown.

**Transportation** — Chester Davenport, assistant secretary for policy, plans and international affairs. He is an ex-aide to Senator Cranston and a former executive of a San Francisco mortgage firm.

**Interior** — Bob Mendelsohn, assistant secretary for policy, budget and administration, a former San Francisco supervisor.

**Council on Environmental Quality** — Chairman Charles Warren, a former state assemblyman.

**Food and Drug Administration** — Commissioner Donald Kennedy, a Stanford biologist.

**Securities and Exchange Commission** — Chairman Harold Williams, former dean of the UCLA graduate school of management.



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# A WASHINGTON PERSPECTIVE . . .

By Lou Cannon

## *The pitfalls of leadership*

When the Democrats were on the rise in California two decades ago, Alan Cranston was a fearsome party activist. For every sparrow that fell, Cranston had an opinion on the reasons for its descent. He involved himself in every issue, every personality contest, every obscure intra-party battle. The result was that he made a lot of enemies and lost a nomination battle for the U.S. Senate in 1964 which he should have won. The Republicans gave him a second chance four years later by replacing incumbent Senator Thomas Kuchel with Max Rafferty and handing Cranston a Senate seat. As soon as he arrived in Washington, Cranston announced he would henceforth be a unifying and conciliating influence who stayed above the party battles.

Considering the strains of California politics and of the Senate, Cranston has stuck to this strategy with remarkable consistency — until he approached his present plateau of leadership as Senate Democratic whip. The Senate is a jealous place, as defeated former Republican Whip Robert Griffin discovered this year and as Hubert Humphrey has long known. In the manuevering that made Robert C. Byrd of West Virginia the Senate majority leader this year, Cranston was on the Byrd side against Humphrey and others because of his own ambitions. The whip position was certain to go to a liberal if Byrd became majority leader, and that liberal was certain to be Cranston, who through tireless effort on half a hundred bills has made himself useful to his fellow senators. But there were some bruised feelings, nonetheless, both among liberals who didn't like this Byrd-Cranston combination and among senators who thought that Cranston soon would be bucking for Byrd's job. For the first time since California days, other Democrats began to put Cranston down in private conversation.

What has particularly diminished Cranston in the eyes of some colleagues and rivals is his popularity with the press — an institution that former reporter Cranston understands as well as any politician in this town. In the spirit of the "open White House," Cranston began giving on-the-record briefings on the meetings between President Carter and the congressional leadership, telling in some detail who said what to each other. This irritated Byrd and also caused some problems at the White House, particularly when Cranston quoted Carter as saying, "Some people get upset everytime Carter sneezes." Vice President Mondale reportedly became annoyed when Cranston attributed to him remarks that Carter had made in reaction to some mild criticism by former President Ford. When House Speaker Thomas (Tip) O'Neill was telling reporters about one leadership meeting, he stopped and said, with unmistakable sarcasm, "I suppose you've already heard about that from Cranston."

Cranston reacted characteristically to the discomfiture of his colleagues. He pulled in his horns, said he would no longer be "a Jody Powell pool reporter" for the press and would hereforth limit his accounts of White House meetings. The about-face was a reminder that Cranston reached his present eminence in the Senate by avoiding fights, not perpetuating them. Perhaps because of the lessons he learned the hard way in California, he has little taste for conflict with members of his own party.

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California congressmen divide pretty much along party lines on President Carter's proposal for election-day registration. Within the House Administration Committee, however, there was agreement among the Californians (Democrats John Burton and Leon Panetta and Republicans Charles Wiggins and Robert Badham) that the affidavit which election-day registrants will be required to sign should be done under penalty of perjury and include an attestation of citizenship. Staff members unofficially called this amendment, suggested by Wiggins, "the California amendment," and it was adopted without serious dissent. The same cannot be said for the bill, which was yanked from the House schedule when its Democratic managers took a count and came up short. The betting now is that the bill eventually will pass the House and stall in the Senate under threat of filibuster.

* * *

Congressman Phillip Burton of San Francisco has reacted to his one-vote loss for House majority leader with a good grace that has astonished some of his opponents. He also has in a short time made himself an expert on the pending legislation to expand the Redwoods National Park and is guiding the bill through the House . . . . The upset victory of Republican conservative Jack Cunningham in a special congressional election in Seattle may be bad news for Democrats in California and other western states. Cunningham won against heavy odds on a "jobs versus the environment" pitch, and Republican national campaign director Charles Black is convinced that the GOP can make gains in the West next year by underwriting candidates who exploit this issue. In Seattle, the winning GOP campaign cost an estimated $300,000, with major help coming from the national party and various conservative political-action groups.

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Representative Norman Mineta of San Jose was outspokenly critical of Democratic leadership on the floor after an anti-union amendment torpedoed a bill to relax the Hatch Act and allow federal workers to engage in politics. Mineta called the handling of the bill "a shame and a debacle." . . . Former Representative Jeffery Cohelan of Berkeley reportedly is in line to be named ambassador to Portugal (he speaks the language) when and if the present ambassador, Frank Carlucci, is reassigned.

* * *

Gerald Ford remains inextricably linked to Richard Nixon, or so it seems. Ford wound up in Washington speaking to a $1,000-a-plate GOP fundraiser the same day as the David Frost interview in which Nixon proclaimed a President was above the law. To all questions about Nixon, Ford replied: "His statements speak for themselves." . . . At the fundraiser that night House Minority Leader John Rhodes told of the bumperstrip which proclaims in big letters, "I Miss Jerry." In smaller letters, it adds, "Hell, I even Miss Lyndon." The next day a reporter observed that Rhodes hadn't said anything about anyone missing Nixon. "No, and I'm not going to," Rhodes replied.



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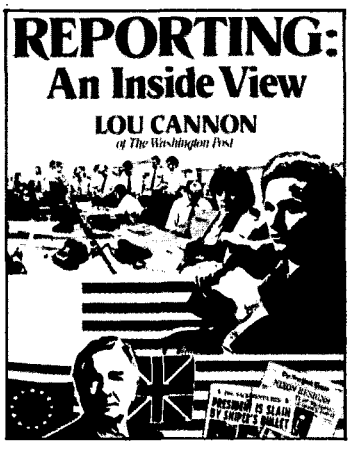
# REPORTING: An Inside View

## By Lou Cannon

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**— Richard Reeves**

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